United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, December 15, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Protect, O God, all people from the assaults of poverty, injustice and fear. We recognize that the promises of a full life are not realized by all and that too often individuals fall short of their expectations and hopes. Inspire in us and all people the vision of a world where righteousness and mercy are the standards of our common life and peace is our focus and goal. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SMITH of Oregon. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SMITH of Oregon. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 57, answered "present" 3, not voting 103, as follows:

[Roll No. 453]

YEAS—270

Akaka	Badham	Biaggi	Broomfield	Hall, Sam	Mottl	Tauke	Washington	Wolf
Albosta	Barnard	Bingham	Brown (CA)	Hamilton	Murtha	Tauzin	Watkins	Wolpe
Anderson	Barnes	Bliley	Brown (OH)	Hammerschmidt	Myers	Taylor	Weaver	Wortley
Andrews	Bedell	Boland	Broyhill	Hance	Napier	Thomas	Weber (OH)	Wright
Annunzio	Benedict	Boner	Burton, Phillip	Hartnett	Natcher	Traxler	White	Wyden
Archer	Bennett	Bowen	Byron	Hatcher	Nelson	Tribie	Whitehurst	Wylie
Ashbrook	Bereuter	Brinkley	Campbell	Hefner	Nichols	Udall	Whitley	Yatron
Aspin	Bethune	Brodhead	Carman	Hightower	Nowak	Volkmer	Whitten	Young (FL)
AuCoin	Bevill	Brooks	Carney	Hiler	Oakar	Walgren	Williams (OH)	Young (MO)
			Chappell	Hillis	Oberstar	Wampler	Winn	Zablocki
			Chappie	Holland	Obey			
			Cheney	Horton	Panetta			
			Coleman	Howard	Parris			
			Collins (IL)	Hoyer	Pashayan			
			Collins (TX)	Hubbard	Patterson			
			Conable	Huckaby	Paul			
			Conte	Hughes	Pease			
			Conyers	Hunter	Pepper			
			Corcoran	Hutto	Perkins			
			Courter	Hyde	Petri			
			Coyne, James	Jeffords	Peyser			
			Coyne, William	Jeffries	Pickle			
			D'Amours	Jenkins	Porter			
			Daniel, Dan	Jones (OK)	Price			
			Daniel, R. W.	Jones (TN)	Quillen			
			Daschle	Kastenmeier	Rangel			
			de la Garza	Kazen	Ratchford			
			Derrick	Kennelly	Regula			
			Dicks	Kildee	Reuss			
			Dingell	Kindness	Rhodes			
			Dixon	Kogovsek	Rinaldo			
			Dorgan	LaFalce	Ritter			
			Dornan	Lagomarsino	Roberts (KS)			
			Dougherty	Lantos	Robinson			
			Dowdy	Leach	Rodino			
			Downey	Leath	Roe			
			Duncan	Leland	Rostenkowski			
			Dwyer	Lent	Roth			
			Early	Levitas	Roukema			
			Eckart	Livingston	Roybal			
			Edwards (CA)	Long (LA)	Rudd			
			English	Lott	Russo			
			Erdahl	Lowery (CA)	Sawyer			
			Erlenborn	Lujan	Scheuer			
			Evans (IN)	Luken	Schneider			
			Fazio	Lundine	Schumer			
			Fenwick	Lungren	Seiberling			
			Ferraro	Markey	Shamansky			
			Fiedler	Marriott	Shannon			
			Findley	Martin (IL)	Sharp			
			Fish	Martin (NY)	Shaw			
			Fithian	Matsui	Shelby			
			Flippo	Mavroules	Shumway			
			Florio	McCollum	Siljander			
			Foglietta	McCurdy	Simon			
			Foley	McDade	Skeen			
			Fowler	McDonald	Skelton			
			Frank	McEwen	Smith (IA)			
			Frenzel	McHugh	Smith (NE)			
			Fuqua	Mica	Smith (NJ)			
			Gilman	Michel	Snowe			
			Gonzalez	Mineta	Solarz			
			Gore	Mitchell (NY)	Spence			
			Gradison	Moakley	Stangeland			
			Gray	Moffett	Staton			
			Green	Molinari	Stokes			
			Gregg	Mollohan	Stratton			
			Guarini	Montgomery	Studds			
			Gunderson	Moore	Stump			
			Hall (IN)	Moorhead	Swift			
			Hall, Ralph	Morrison	Synar			

NAYS—57

Atkinson	Evans (IA)	McGrath
Bailey (MO)	Fields	Miller (OH)
Bouquard	Gejdenson	Nelligan
Brown (CO)	Gingrich	Oxley
Butler	Goodling	Patman
Clinger	Gramm	Roemer
Coats	Hansen (ID)	Rogers
Coughlin	Hansen (UT)	Sabo
Craig	Harkin	Schroeder
Crane, Daniel	Hawkins	Sensenbrenner
Crane, Philip	Hendon	Smith (AL)
Dannemeyer	Hopkins	Smith (OR)
Daub	Jacobs	Snyder
Derwinski	Latta	Solomon
Dickinson	LeBoutillier	Stenholm
Dreier	Lewis	Walker
Edgar	Loeffler	Weber (MN)
Edwards (OK)	Lowry (WA)	Whittaker
Emerson	Marlenee	Young (AK)

ANSWERED "PRESENT"—3

McClory	Ottinger	St Germain

NOT VOTING—103

Addabbo	Fascell	McCloskey
Alexander	Ford (MI)	McKinney
Anthony	Ford (TN)	Mikulski
Applegate	Forsythe	Miller (CA)
Bafalis	Fountain	Minish
Bailey (PA)	Frost	Mitchell (MD)
Beard	Garcia	Murphy
Beilenson	Gaydos	Neal
Blanchard	Gephardt	O'Brien
Boggs	Gibbons	Pritchard
Bolling	Ginn	Pursell
Bonior	Glickman	Rahall
Bonker	Goldwater	Railsback
Breaux	Grisham	Roberts (SD)
Burgener	Hagedorn	Rose
Burton, John	Hall (OH)	Rosenthal
Chisholm	Heckler	Rousselot
Clausen	Heftel	Santini
Clay	Hertel	Savage
Coelho	Hollenbeck	Schulze
Crockett	Holt	Shuster
Davis	Ireland	Smith (PA)
Deckard	Johnston	Stanton
Dellums	Jones (NC)	Stark
DeNardis	Kemp	Vander Jagt
Donnelly	Kramer	Vento
Dunn	Lee	Waxman
Dymally	Lehman	Weiss
Dyson	Long (MD)	Williams (MT)
Edwards (AL)	Madigan	Wilson
Emery	Marks	Wirth
Ertel	Martin (NC)	Yates
Evans (DE)	Martinez	Zeferetti
Evans (GA)	Mattox	
Fary	Mazzoli	

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

□ 1015

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4481. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes; and

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4481) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. SPECTER, Mr. MATHIAS, Mr. EAST, Mr. BIDEN, Mr. KENNEDY, and Mr. HEFLIN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7356) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCLURE, Mr. STEVENS, Mr. LAXALT, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. RUDMAN, Mr. HATFIELD, Mr. ROBERT C. BYRD, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, and Mr. PROXMIRE to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 7356, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7356) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1983, and for other purposes with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. YATES, MURTHA, DICKS, AUCOIN, RATCHFORD, WHITTEN, MCDADE, REGULA, LOEFFLER, and CONTE.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed on Tuesday, December 14, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7340, by the yeas and nays; and

S. 1965, by the yeas and nays.

The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

OREGON WILDERNESS ACT OF 1982

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7340, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 7340, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 247, nays 141, not voting 45, as follows:

[Roll No. 454]

YEAS—247

Addabbo	Brodhead	Dymally
Akaka	Brooks	Early
Albosta	Brown (CA)	Eckart
Alexander	Burgener	Edgar
Anderson	Burton, Phillip	Edwards (CA)
Andrews	Byron	Emery
Annunzio	Chappell	English
Applegate	Clay	Erdahl
Aspin	Coelho	Evans (IA)
Atkinson	Collins (IL)	Evans (IN)
AuCoin	Conable	Fazio
Bailey (PA)	Conte	Fenwick
Barnard	Conyers	Ferraro
Barnes	Coughlin	Fiedler
Bedell	Courter	Findley
Bennett	Coyne, William	Fish
Bevill	D'Amours	Fithian
Biaggi	Daschle	Flippo
Bingham	de la Garza	Florio
Boggs	Dellums	Foglietta
Boland	Derrick	Foley
Boner	Dicks	Ford (TN)
Bonior	Dingell	Forsythe
Bonker	Dixon	Fowler
Bouquard	Donnelly	Frank
Bowen	Dorgan	Frost
Breaux	Downey	Fuqua
Brinkley	Dwyer	Garcia
Gaydos	Mattox	Rose
Gejdenson	Mavroules	Rostenkowski
Gibbons	Mazzoli	Roukema
Gilman	McCloskey	Roybal
Ginn	McCurdy	Russo
Glickman	McDade	Sabo
Gonzalez	McEwen	Sawyer
Gore	McHugh	Scheuer
Gradison	McKinney	Schneider
Gray	Mica	Schroeder
Green	Miller (CA)	Schumer
Guarini	Miller (OH)	Seiberling
Hall (IN)	Mineta	Sensenbrenner
Hall (OH)	Minish	Shamansky
Hall, Sam	Mitchell (MD)	Shannon
Hamilton	Mitchell (NY)	Sharp
Hance	Moakley	Simon
Harkin	Moffett	Skelton
Hawkins	Mollohan	Smith (IA)
Heckler	Morrison	Smith (NJ)
Hefner	Mottl	Snowe
Heftel	Murphy	Solarz
Hightower	Murtha	St Germain
Hillis	Natcher	Stanton
Holland	Nelson	Stenholm
Howard	Nichols	Stokes
Hoyer	Nowak	Stratton
Hubbard	O'Brien	Studds
Hughes	Oakar	Swift
Hutto	Oberstar	Synar
Jacobs	Obey	Tauke
Jeffords	Ottinger	Tauzin
Jenkins	Panetta	Traxler
Jones (NC)	Patman	Udall
Jones (OK)	Patterson	Vento
Jones (TN)	Pease	Volkmer
Kastenmeier	Pepper	Walgren
Kazen	Perkins	Washington
Kennelly	Petri	Watkins
Kildee	Peyser	Waxman
Kogovsek	Pickle	Weaver
LaFalce	Porter	Weiss
Lantos	Price	White
Leach	Pritchard	Whitley
Leath	Pursell	Whitten
Leland	Rahall	Williams (MT)
Levitas	Rangel	Wolpe
Long (LA)	Ratchford	Wright
Long (MD)	Regula	Wyden
Lowry (WA)	Reuss	Yatron
Luken	Rinaldo	Young (FL)
Lundine	Ritter	Young (MO)
Markey	Rodino	Zablocki
Martinez	Roe	
Matsui	Roemer	

NAYS—141

Archer	Dreier	Livingston
Ashbrook	Duncan	Loeffler
Badham	Dunn	Lott
Bafalis	Edwards (AL)	Lowery (CA)
Bailey (MO)	Edwards (OK)	Lujan
Benedict	Emerson	Lungren
Bereuter	Erlenborn	Marlenee
Bliley	Fields	Marriott
Broomfield	Fountain	Martin (IL)
Brown (CO)	Frenzel	Martin (NC)
Brown (OH)	Gingrich	Martin (NY)
Broyhill	Goodling	McClory
Butler	Gramm	McCollum
Campbell	Gregg	McDonald
Carman	Grisham	McGrath
Carney	Gunderson	Michel
Chappie	Hall, Ralph	Molinari
Cheney	Hammerschmidt	Montgomery
Clausen	Hansen (ID)	Moore
Clinger	Hansen (UT)	Moorhead
Coats	Hartnett	Myers
Coleman	Hatcher	Napier
Collins (TX)	Hendon	Nelligan
Corcoran	Hiler	Oxley
Coyne, James	Hopkins	Parris
Craig	Horton	Pashayan
Crane, Daniel	Hunter	Paul
Crane, Philip	Hyde	Quillen
Daniel, Dan	Jeffries	Rhodes
Daniel, R. W.	Johnston	Roberts (KS)
Dannemeyer	Kemp	Roberts (SD)
Daub	Kindness	Robinson
Davis	Kramer	Rogers
Derwinski	Lagomarsino	Roth
Dickinson	Latta	Rousselot
Dornan	LeBoutillier	Rudd
Dougherty	Lent	Shaw
Dowdy	Lewis	Shelby

Shumway	Staton	Weber (OH)
Siljander	Stump	Whitehurst
Skeen	Taylor	Whittaker
Smith (NE)	Thomas	Williams (OH)
Smith (OR)	Trible	Winn
Snyder	Vander Jagt	Wolf
Solomon	Walker	Wortley
Spence	Wampler	Wylie
Stangeland	Weber (MN)	Young (AK)

NOT VOTING—45

Anthony	Fary	Mikulski
Beard	Fascell	Neal
Bellenson	Ford (MI)	Railsback
Bethune	Gephardt	Rosenthal
Blanchard	Goldwater	Santini
Bolling	Hagedorn	Savage
Burton, John	Hertel	Schulze
Chisholm	Hollenbeck	Shuster
Crockett	Holt	Smith (AL)
Deckard	Huckaby	Smith (PA)
DeNardis	Ireland	Stark
Dyson	Lee	Wilson
Ertel	Lehman	Wirth
Evans (DE)	Madigan	Yates
Evans (GA)	Marks	Zeferetti

□ 1030

Mr. DOWDY and Mr. RALPH M. HALL changed their votes from "yea" to "nay."

Mr. McEWEN and Mr. ATKINSON changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PADDY CREEK WILDERNESS ACT OF 1981

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1965.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 1965, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 143, not voting 40, as follows:

[Roll No. 455]

YEAS—250

Addabbo	Bonker	Derrick
Akaka	Bouquard	Dicks
Albosta	Bowen	Dingell
Alexander	Breaux	Dixon
Anderson	Brinkley	Dorgan
Andrews	Brodhead	Dowdy
Annunzio	Brooks	Downey
Applegate	Brown (CA)	Duncan
Aspin	Burton, Phillip	Dwyer
AuCoin	Chappell	Dymally
Bafalis	Clay	Dyson
Bailey (PA)	Clinger	Early
Barnard	Coelho	Eckart
Barnes	Coleman	Edgar
Bedell	Collins (IL)	Edwards (CA)
Bennett	Conable	Emery
Bereuter	Conte	English
Bevill	Conyers	Ertel
Biaggi	Coughlin	Evans (GA)
Bingham	Courter	Evans (IA)
Boggs	Coyne, William	Evans (IN)
Boland	D'Amours	Fazio
Bolling	Daschle	Fenwick
Boner	de la Garza	Ferraro
Bonior	Dellums	Fithian
Flippo	Leach	Rodino
Florio	Leath	Roe
Foglietta	Leland	Roemer
Foley	Levitas	Rose
Ford (TN)	Long (LA)	Rostenkowski
Fountain	Long (MD)	Roth
Fowler	Lowry (WA)	Roukema
Frank	Luken	Roybal
Frost	Lundine	Russo
Fuqua	Markey	Sabo
Garcia	Martin (IL)	Sawyer
Gaydos	Martinez	Scheuer
Gejdenson	Matsui	Schneider
Gephardt	Mattox	Schroeder
Gibbons	Mavroules	Schumer
Gilman	Mazzoli	Seiberling
Ginn	McCurdy	Sensenbrenner
Glickman	McEwen	Shamansky
Gonzalez	McHugh	Shannon
Goodling	Mica	Sharp
Gore	Miller (CA)	Simon
Gradison	Miller (OH)	Skelton
Gray	Mineta	Smith (IA)
Green	Minish	Smith (NJ)
Gregg	Mitchell (MD)	Solarz
Guarini	Mitchell (NY)	St Germain
Hall (IN)	Moakley	Stanton
Hall (OH)	Moffett	Stenholm
Hall, Sam	Mollohan	Stokes
Hamilton	Montgomery	Studds
Hance	Moore	Swift
Harkin	Motti	Synar
Hatcher	Murphy	Tauzin
Hawkins	Murtha	Traxler
Heckler	Natcher	Udall
Hefner	Nelson	Vander Jagt
Heftel	Nowak	Vento
Hertel	Oakar	Volkmer
Hightower	Oberstar	Walgren
Hillis	Obey	Washington
Holland	Ottinger	Watkins
Howard	Panetta	Waxman
Hoyer	Patman	Weaver
Hubbard	Patterson	Weber (MN)
Huckaby	Pease	Weiss
Hughes	Pepper	White
Hutto	Perkins	Whitley
Jeffords	Petri	Whitten
Jenkins	Peyser	Williams (MT)
Jones (NC)	Pickle	Wolpe
Jones (OK)	Porter	Wright
Jones (TN)	Price	Wyden
Kastenmeier	Pritchard	Wylie
Kazen	Rahall	Yatron
Kemp	Rangel	Young (FL)
Kennelly	Ratchford	Young (MO)
Kildee	Regula	Zablocki
Kogovsek	Reuss	
Lantos	Rinaldo	

NAYS—143

Archer	Donnelly	Kindness
Ashbrook	Dornan	Kramer
Atkinson	Dougherty	LaFalce
Badham	Dreier	Lagomarsino
Bailey (MO)	Dunn	Latta
Benedict	Edwards (AL)	LeBoutillier
Bliley	Edwards (OK)	Lewis
Broomfield	Emerson	Livingston
Brown (CO)	Erdahl	Loeffler
Brown (OH)	Erlenborn	Lott
Broyhill	Fiedler	Lowery (CA)
Burgener	Fields	Lujan
Butler	Findley	Lungren
Byron	Fish	Marlenee
Campbell	Forsythe	Marriott
Carman	Frenzel	Martin (NC)
Carney	Gingrich	Martin (NY)
Chappie	Gramm	McClory
Cheney	Grisham	McCloskey
Clausen	Gunderson	McCollum
Coats	Hall, Ralph	McDade
Collins (TX)	Hammerschmidt	McDonald
Corcoran	Hansen (ID)	McGrath
Coyne, James	Hansen (UT)	McKinney
Craig	Hartnett	Michel
Crane, Daniel	Hendon	Molinari
Crane, Philip	Hiler	Moorhead
Daniel, Dan	Hopkins	Morrison
Daniel, R. W.	Horton	Myers
Dannemeyer	Hunter	Napier
Daub	Hyde	Nelligan
Davis	Jacobs	Nichols
Derwinski	Jeffries	O'Brien
Dickinson	Johnston	Oxley
Parris	Shumway	Taylor
Pashayan	Siljander	Thomas
Paul	Skeen	Trible
Quillen	Smith (AL)	Walker
Rhodes	Smith (NE)	Wampler
Ritter	Smith (OR)	Weber (OH)
Roberts (KS)	Snowe	Whitehurst
Roberts (SD)	Snyder	Whittaker
Robinson	Solomon	Williams (OH)
Rogers	Spence	Winn
Rousselot	Stangeland	Wolf
Rudd	Staton	Wortley
Shaw	Stratton	Young (AK)
Shelby	Stump	

NOT VOTING—40

Anthony	Goldwater	Rosenthal
Beard	Hagedorn	Santini
Bellenson	Hollenbeck	Savage
Bethune	Holt	Schulze
Blanchard	Ireland	Shuster
Burton, John	Lee	Smith (PA)
Chisholm	Lehman	Stark
Crockett	Lent	Tauke
Deckard	Madigan	Wilson
DeNardis	Marks	Wirth
Evans (DE)	Mikulski	Yates
Fary	Neal	Zeferetti
Fascell	Pursell	
Ford (MI)	Railsback	

□ 1045

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MOVE TO EXPEDITE DECONTROL OF NATURAL GAS ALARMING

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, this morning's Kansas City Times has an article that states that the Energy Secretary supports speedup of gas decontrol. In this article we also find that President Reagan recently affirmed a campaign pledge to accelerate the decontol of gas prices.

We all know what this means for the senior citizens and those people on fixed income in our country should this come to pass. Gas prices would go through the ceiling.

Mr. Speaker, there is legislation that I have introduced along with the gentleman from Kansas (Mr. GLICKMAN) and others, that would address this.

I would also point out that the fact there are those who say that since automobile gasoline has been decontrolled the price has gone down, in that case the American citizen has conserved. You cannot conserve when it gets cold. You have to turn the furnaces up.

I think this is something we should view with alarm, Mr. Speaker.

SPACE CAUCUS

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, as the 97th Congress draws to a close, I want to take this opportunity to remind my colleagues, in case anyone has forgotten, just how important I think our Nation's space program really is. History has shown that an investment in space has been one of the best investments that we have made in our country's future. We have gained national prestige from our leading role in man's effort to explore the cosmos. When Apollo landed on July 20, 1969, on the surface of the Moon, we were the envy of every nation of the world. The world respected and admired our achievement.

Furthermore, our space program and the technology we have developed for our space program have driven our technology base during the last 2 decades.

During the 97th Congress, many of our colleagues have recognized the vital importance of our space program. It was in the 97th Congress that the Congressional Space Caucus was born. Starting with a small band of stouthearted supporters, the Space Caucus now boasts a membership of 71 Members of the House. Since January of this year, our membership has more than doubled. I am confident that it will continue to grow during the course of the 98th Congress. To all those who are members of the Congressional Space Caucus, I offer you my heartfelt congratulations. You have taken a leading role in shaping the future of our Nation's space effort.

For those of you who have not yet joined, let me encourage you to do so. There is an added benefit to joining the Congressional Space Caucus—to date, membership is free, for there are no dues. I encourage all of my colleagues to take advantage of this opportunity.

I am inserting the names of the members of the Congressional Space Caucus in the RECORD at this point:

MEMBERS OF THE CONGRESSIONAL SPACE CAUCUS

Daniel K. Akaka (Cochairman), Bill Alexander, Don Bailey, Tom Bevill, George Brown, Don Clausen, Thomas Coleman, Silvio Conte, Jim Coyne, Baltasar Corrada, Dan Daniel, Ed Derwinski, Norman Dicks, Charles Dougherty, David Dreier, Mervyn Dymally, Don Edwards, David Emery.

Cooper Evans, Vic Fazio, Jack Fields, Ronnie Flippo, Tom Foley, Don Fuqua, Newt Gingrich (Cochairman), Wayne Grisham, George Hansen, Charles Hatcher, Cecil Heftel, Harold Hollenbeck, Steny Hoyer, Jerry Huckaby, Duncan Hunter, Jim Jeffries, Dale Kildee, Ken Kramer.

Tom Lantos, Bob Livingston, Bill Lowery, Mike Lowry, Manuel Lujan, Raymond McGrath, Robert Matsui, Nick Mavroules, Dan Mica, Norman Mineta, Joe Moakley, Steve Neal, Bill Nelson, Clarence D. Long, Mary Rose Oakar, George O'Brien, Mike Oxley, Bob Livingston.

Leon Panetta, Robert Roe, Harold Rogers, John Rousselot, Edward Roybal, Eldon Rudd, Jim Scheuer, Norman Shumway, Joe Skeen, Fofo Sunia, Mo Udall, Doug Walgren, Bob Walker, Wes Watkins, Bill Whitehurst, Tim Wirth, Robert A. Young, C. W. Bill Young.

VOTE EXPLANATION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is frustrating and embarrassing, after working and voting yesterday in opposition to a pay raise for Members of Congress, that press accounts spread throughout the Commonwealth of Kentucky today that "U.S. Representative CARROLL HUBBARD voted in favor of the Fazio amendment to increase congressional salaries by $9,137.50."

Indeed, it is especially frustrating because I realize the majority of my constituents in western Kentucky have complained loudly that Congress should not be entitled to a 27-percent pay increase or, in fact, any salary increase. This is certainly not the time to vote pay raises for ourselves when so many people are unemployed or unable to pay their bills. I have consistently advised my constituents that I would oppose efforts to raise congressional pay as their Representative in Congress.

The amendment offered yesterday by Representative VIC FAZIO is now described by the media as a vote for a 15-percent pay increase.

I voted yes on the Fazio amendment to oppose the House Administration Committee's unwise and unbelievable recommendation for a 27-percent pay raise for Members of Congress. A "yes" vote on Fazio was the best as step No. 1 toward killing the congressional pay raise. The amendment offered by Mr. FAZIO permitted a situation where Members could vote themselves an increase in salary by voting either "yes" or "no" on the amendment. A "yes" vote meant a 15-percent increase where a "no" vote meant a 27-percent increase. While I oppose this way of handling the issue, I voted for a reduced level of increase.

It is unfortunate that how Members of Congress voted on the critical Traxler amendment—to kill the Fazio amendment and reimpose the current pay cap—has been almost totally ignored by the press. Indeed, my "yes" vote for Traxler should be a strong message for my constitutents that I am opposed to increases in congressional salaries.

Another strong indication of my opposition to pay raises is my "no" vote yesterday against the final passage of the continuing appropriations for fiscal year 1983.

AUTHORIZATION AND APPROPRIATION

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, along with many other Members of this House, I am deeply concerned about the manner in which we do things—by that I mean the congressional process. That is the reason I raised a point of order last week on a matter in the Defense appropriations bill.

There is yet another problem with the process that was not adequately addressed during consideration of that same bill—the relationship of authorization to appropriations.

At present, for defense programs the House authorizes and appropriates by legislation only large dollar amounts. The legislation does not address specific programs—except in certain cases. The detail by program is contained in the committee reports and has been regarded as binding on the Department of Defense. Unfortunately, the authorization and appropriations committees on occasion provide contradictory instructions for some programs in the reports. We have tried to work out these differences in the past, and we tried again last week but were unable to do so "given the press of business." Both sides worked in good faith and have tried sincerely to minimize the problem.

Unfortunately, the effect of these differences is to leave the final decision to the Department of Defense. The current situation is not good for the congressional process.

Because no other alternative seems feasible, I wish to state publicly my intention to work next year for a defense authorization bill that will, on a line item basis, provide specific authority for defense programs and erase any doubts as to how the money authorized and appropriated to the Department of Defense can be used.

AUTHORIZATION AND APPROPRIATION

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, in the legislative system in the Congress, both the Authorization and the Appropriation Committees have important roles to play. The House rules carefully prescribe the rolls for each.

On occasion though, the actions of one tend to overlap the other. I want to say that in the defense area, the Armed Services Committee and the Appropriations Committee have tried very sincerely to minimize this overlap, and I personally appreciate the efforts of those on the Committee on Appropriations.

On too many occasions, however, the actions in the appropriations process in the other body do not evidence the

same regard. When the result is that the appropriations legislation and its accompanying report provide guidance to the Department of Defense that is different than the guidance provided during the authorization process—not just in terms of less money for a specific program, but actually a different direction for the program to take—the effect is for the department to be caught in the middle. More importantly, this anomaly often allows the Department to go its own way on issues on which the Congress has a strong interest.

Efforts have been made to solve this problem on an informal basis, but serious problems remain, particularly in the approach taken in the other body.

I believe the need for resolution of this problem outweighs any disadvantage that may result from a line item authorization. I will be prepared, therefore, to consider next year a defense authorization bill that will leave less room for confusion as to how the Congress wants defense resources spent—as well as to how funds cannot be spent—if the conference report on the 1983 Defense appropriations bill does not conform with authorization legislation.

HOUSE WASTING TIME WHEN IT COULD PASS REGULATORY REFORM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, on many occasions this House takes wise and noble actions and on other occasions the actions of this House are less than wise and not necessarily noble.

Today we are about to do some of the latter. Part of the program for today is a resumption of consideration of the so-called domestic content bill which, according to a press report today, has been identified by the Speaker as legislation which will not even pass the Congress this year.

Yet in the closing days of this session we are going to spend time on a bill that will not pass Congress while at the same time there is legislation which is not being considered that could pass in a very short period of time, legislation that has widespread bipartisan support. I refer to the regulatory reform legislation which has already passed the other body by a vote of 94 to nothing.

Notwithstanding certain specific commitments and understandings and promises, that bill is still bottled up in the Rules Committee of this House. It is a perversion of the priorities of the time and business of this House and the Members, not to consider important legislation that can pass through this House and the other body, be enacted and into law while at the same time wasting time on legislation which has already been publicly identified by the Speaker as never ever having a chance of passing. That does a disservice to the dignity of this House. No wonder the American people sometimes shake their heads in disbelief at our antics.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I am happy to yield.

Mr. WALKER. I thank the gentleman.

How many times have we received assurances on this floor in the course of the last year that regulatory reform is going to be taken up? I think it is at least a dozen.

Would the gentleman agree?

Mr. LEVITAS. I have lost count. It has been more than a dozen times.

It just seems to me it is unfortunate that this House is being deprived of the opportunity to work its will with the overwhelming bipartisan support that it has. In light of the fact that the other body has already passed this legislation, we could dispose of this and pass it within a couple of hours while, instead, we are going to be wasting time on legislation which the Speaker has already said will never be passed by Congress.

□ 1100

THERE IS AN IMMEDIATE NEED FOR ARTICLE II BANKRUPTCY COURT LEGISLATION

(Mr. BUTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUTLER. Mr. Speaker, we are now 9 days away from December 24, which the world will celebrate as Christmas Eve but which a few of us may look back upon in future years as the last day for some time that the bankruptcy court system functioned efficiently. This is the day the Supreme Court's stay of its order in Northern Pipeline Construction Co. against Marathan Pipe Line Co. will expire. No one expects a further extension, as is clear from a letter from the Attorney General to the Speaker of the House, which was placed in the RECORD yesterday.

It is true that the Judicial Conference has prepared a model rule for adoption by the Federal district courts if Congress fails to act. But let us not delude ourselves into thinking that anyone knowledgeable in the bankruptcy area thinks that this model rule would actually work. The Department of Justice, for one, considers it unworkable, and so testified before Senator DOLE's Courts Subcommittee on November 10. And the National Bankruptcy Conference has just stated that in its view the proposed rule is invalid, or of such dubious validity that the additional litigation it will provoke will bring about the same chaos it is supposed to avoid, and that in any event it is wholly unworkable.

It is now up to the House to bite the bullet and act now to place the bankruptcy court system on a firm constitutional basis, either by enacting the Bankruptcy Court Act already reported from the Judiciary Committee, H.R. 6978, or by adopting the slightly different approach embodied in title II, subtitle A, of my Omnibus Bankruptcy and Court Improvement Act (H.R. 7349).

As the Attorney General suggested in his letter:

> There is a dimension to the urgency for congressional passage that is not present with regard to any other bill currently pending in this session. That dimension is the recognition and respect that we, as representatives of the legislative and executive branches, owe to the judicial branch. For this reason it is imperative that remedial legislation reconstituting the bankruptcy court system on a sound constitutional basis be enacted before the end of the current legislative session.

Mr. Speaker, to do less than this would be to abdicate our responsibility to the American people.

A TURNABOUT BY OPPONENTS OF OUR LAND-BASED DETERRENT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the temporary setback for the MX missile revealed an interesting turn about in the thinking of the critics of U.S. defense initiatives.

For some 20 years, until recently, we have heard from those who have so vigorously rejected the notion that the Soviets would attempt to use offense weapons capable of surpassing our once-advanced Minuteman. It was said during the 1960's and 1970's by these critics we need not modernize our own forces, since the Soviets lacked both the will and ability to topple our supposedly invincible, strategic forces.

Well, times have changed, with a massive buildup by the Soviets rendering our Minuteman, and other U.S. systems, vulnerable in any strategic context, with the critics' new understanding of the motivations and technical abilities of the Soviets, a new doctrine has emerged.

We were told that we should reject a superior, land-based deterrent, the MX missile, because no matter how we deploy it it will never work. But even if the MX does work, so say these critics, it would be a destabilizing weapon because the Soviets would sure enough build an even better missile; so, we are told, there is no use even trying.

This is a rather astonishing turnabout—something I urge my colleagues to keep in perspective.

AMERICA'S TUNA INDUSTRY

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, today many American industries find themselves at a crossroads. The recession has taken a steep toll that leaves some industries hanging on by a slender thread.

One such business is America's tuna industry. Plagued by seizures by foreign governments, depleted fisheries' stocks, and a down market, our fishermen are presently struggling to survive. My own district of San Diego has recently experienced a plant closure that eliminated about 1,000 jobs.

Soon we will be faced with dealing with the Caribbean Basin Initiative designed to improve the trade status of our neighbors to the South. Unless there is an opportunity for amendment, the act which is aimed at economic recovery for the Caribbean Basin could well mean the economic devastation of America's tuna industry.

I hope, Mr. Speaker, that this body will allow and accept amendments to the Caribbean Basin Economic Recovery Act that will allow us to pass a bill while allowing the American tuna industry to survive.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to address the House simply to bring to the House's attention that we are on the verge of an historic moment in the history of this House. Tomorrow debate will begin on the Immigration Reform and Control Act of 1982, a bill which for the first time in 30 years would reform in a correct, humane, and sensitive way the immigration laws of this Nation. The act would have an effect upon every American citizen in every district which we would represent.

There has been some discussion, Mr. Speaker, that because of the lateness of the hour in this lameduck session, we would not have time to complete our work, in the careful way that the House operates, and still go to conference and return a conference report. I would like to note this and underline it to the House that the Senate has passed a bill very much like the bill which is pending before this body. I have every confidence that, working with the junior Senator from Wyoming, the House and Senate conferees could produce a good bill and return the good bill to this House for ratification.

I urge the Members of the House to attend the debate and to be involved in the debate as we begin the immigration reform bill on tomorrow.

IMMIGRATION REFORM ACT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I would like to reiterate what the immediately preceding speaker said. We have an opportunity to do something about an issue that is very much in the forefront of the minds of many of our constituents; that is, the question of immigration policy. For 30 years we have failed to act in a substantial and comprehensive way. The problem is that the national interest truly requires that we do something. Unfortunately, very special interests would be well served if we did nothing. This I think is a test of this Congress, whether in the waning days the special interests will win out, or whether we will address something that needs to be addressed in the name of the national interest.

We have an administration, the first one in about 30 years, that has bitten the bullet and attempted to try to do something about our immigration problems. This bill has passed the Senate. All it needs is for us to take some time to work out the problems here on the floor of the House so that we can have a conference and send it to the President for his signature. It is my fear that if we do not do this in the waning days of this Congress, we will not do it in the Congress that is coming up because the new Congress will be in a Presidential election cycle. Truly our country would not be well served by our avoidance of our duty on this important issue.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATION, 1983

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 7072) making appropriations for the agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 10, 1982.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentlewoman from Nebraska (Mrs. SMITH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker and my colleagues, we come today to what is certainly the most basic bill that we deal with. The ability of this country to produce food and fiber has been the foundation of our great success and our high standard of living. As I have said many times:

> It takes so few of us to provide food, clothing, and shelter for the rest of us, that it enables the rest of us, to provide the thousand and one things that allow for our high standard of living.

Not only is agriculture basic in that way, but also it is our biggest dollar earner in world trade. It is the biggest advantage that we have over Russia, for they can in no way compete with us in the production of food. Unfortunately, we are failing to use that advantage. Instead of using this advantage, we hold our farm commodities off world markets, store them instead of making these "surplus to domestic need," commodities available to the needy people of the world.

We must sell. To sell we must offer at competitive prices. This would not be dumping—for our support price is to offset high American costs. Other countries do the same thing through taxes—but they do sell in world markets what they have and do not need. Thus we hold an umbrella over the world price; our competitors sell, we hold.

We set up the Commodity Credit Corporation to sell competitively. Unfortunately, for several years we have not used this $25 billion Corporation for that purpose. We must return to using it.

WE MUST SELL AT COMPETITIVE PRICES

In the mid-1950's, when Ezra Taft Benson was Secretary of Agriculture, large inventories of commodities were accumulated by the Commodity Credit Corporation similar to what is happening today. Outside influences on the White House and State Department kept the Corporation from using its authorities to sell at competitive prices in world trade.

At that time, under an erroneous decision, a policy was set up of making the American support price substantially the offering price in world markets. As a result, we were put in the position of being a residual supplier, a holder of inventory for the whole world.

At that time, an inventory of over $8 billion was built up of wheat, corn, dairy products, cotton, and tobacco. The news media was full of stories about how it was costing $700,000 a

day in storage costs, with no mention that we had this inventory because we would not sell.

This huge inventory hung like the sword of Damocles over the American farmer. It was used by the Eisenhower administration to cut support prices and institute acreage controls.

In 1955, by Secretary Benson's own figures, 55,000 farm families were put off farms in the South solely because of the acreage reduction that year.

All of the history of this period was reprinted in part 2 of our committee's hearings for 1980. Because of demand for the volume we will reprint it this year.

PAYMENT-IN-KIND

You have been reading recently about the proposed payment-in-kind program. Well, I think our agriculture today is in such bad shape that those engaged in agriculture are glad to have any help that will increase their collateral so that they can borrow money with which to farm is this coming year. So the payment-in-kind is welcomed by many because it does give them an increse in collateral in order to remain in agriculture. But may I say to you that the minute you pay in kind, sooner or later there will be a year when farmers will not have to farm, and then all of agriculture will go broke.

This payment-in-kind reduces all the gross spending that would normally go on in the farm community—chemicals, seed, farm equipment—everything connected with agriculture. If this reduction is kept over a period of years we will feel the effects, and we will all be in worse shape.

Now, you say: Why is that true?

COMMODITY CREDIT CORPORATION

Years ago—and I find that so many of my colleagues do not recall this and have not read about it—the Congress, realizing that industry and labor were getting a bigger and bigger share of the consumer dollar, established the Commodity Credit Corporation. CCC is the biggest revolving fund that I know of in history. It was set up for the purpose of supporting farm prices, and to buy and sell commodities.

CCC was originally incorporated under the laws of Delaware and is now a wholly owned Government corporation. CCC operates as a fully funded revolving fund of $25 billion with authority to support prices, to buy commodities, and to sell competitively in world trade. The proceeds are returned to the fund for further use. CCC is the only organization of our Government that has the authority under its charter to buy and sell, the same way as our competitors.

To hold U.S. commodities off world markets is to hold an umbrella over world prices at the expense of U.S. farmers. Our customers can then take delivery from our competitors at just under our price.

SELLING IN WORLD MARKETS

For agricultural commodities, the world price is the only real price. The rest of the world sells to their domestic market at the world price, but then taxes their people. We, however, choose not to add a user's tax to food, but rather maintain a cheap food policy for our domestic market, and make up the difference between domestic price and world price by direct payments in order to keep our farmers in business. This policy results in Government-owned inventories at artificially inflated prices.

Yet, when we try to sell in world trade at competitive prices—the rest of the world calls it dumping. By doing so, they try to conceal their own domestic policies.

As a result, we do not sell our commodities, we store them. By storing our commodities and offering only at an artificial inflated price, we hold our umbrella over the world price and let the rest of the world make the sales.

Refusing to sell surplus products and then making the farmer pay the cost of that policy is unacceptable. These products are surplus to domestic needs—they are not surplus to world needs. It is unconscionable to refuse to sell food when millions of people throughout the world go to bed hungry every night, and then make the farmer bear the cost of that policy. Not only is this policy unconscionable, it also will not work. The history of our efforts at production controls clearly demonstrates that such controls are not a satisfactory substitute for competitive sales abroad.

CCC'S AUTHORITY TO SELL COMPETITIVELY

The Commodity Credit Corporation Charter Act provides unlimited authority to sell competitively in world markets. Like most exporting nations of the world, we should sell what we produce and do not need for what it will bring in the world markets. Past experience has shown that, when buyers have the opportunity to support world prices by their bids, markets throughout the world are strengthened and commodities flow freely through the normal channels of trade. Loss of markets to our competitors has proved the dangers of an artificial price umbrella over world markets fixed by a governmental policy.

Mr. Speaker, I would point out that it is the obligation of the officers of any corporation to protect the assets of their corporation. So it is with the officers of the Commodity Credit Corporation. Failure to sell is a failure to protect the assets of the Corporation. The present directors and officers of the Corporation, including the General Sales Manager, are all employees of the Department of Agriculture and are also subject to policies from outside the Department which, at times, clearly are not in the interests of U.S. agricultural producers. If, by being Federal employees, they are unable to operate freely in carrying out their duties, then they should step aside and allow their positions to be filled by non-Federal employees, who have had experience in world trade and who can and will properly discharge their responsibilities as officers or directors of the Corporation. This change would give the Corporation the independence of action that Congress intended and would free the Corporation from restrictive sales policies.

WE MUST REGAIN OUR WORLD MARKETS

So I say, as we come here now, if we are going to restore health to the farm commodity area and to the farmers, we again are going to have to move back competitively in world markets as everybody else does. And I hope the press will learn that we support the price for the domestic market, in order to reflect the cost, but when we compete in world markets at world prices, we are not dumping anything. And yet the press always claims that that is true.

Let me again point out what we face.

FACTS WE MUST FACE UP TO

American farmers are more than $200 billion in debt.

Interest rates range from 15 to 20 percent on outstanding loans.

The number of those engaged in agriculture is less than 4 percent, freeing the other 96 percent to do other things, including processing of agricultural commodities.

Agriculture, as an industry, is bigger than the auto, steel, and housing industries combined. Agriculture is the biggest industry and employer in our country, and the farmer is in the worst trouble since the Great Depression.

In the last 2 years, farm costs have gone up 22 percent, while prices are down. The farmer has faced embargoes and threats of embargo. The result of embargoes is to merely turn the markets over to our foreign competitors.

We have refused to sell when we are dependent on exporting the production from 2 out of every 5 acres.

In a hungry world, this country should not hold back on food for people, while sending them guns and weapons of war, which the people do not want but their leaders do—as status symbols. Our records show we have sold or provided such weapons of war to 78 countries—many of them tiny countries you never heard of—and we are always surprised when they use them.

SUMMARY OF THE BILL

Mr. Speaker, may I say that so far as I know there is absolute agreement on this conference report by all members of the committee.

The bill before us, is $107.8 million less than the amount appropriated for fiscal year 1982. It is $99.7 million less

than the amended budget request submitted by the President.

We also, may I say, in this bill, restore the conservation programs to last year's level, including ACP and funds for the Soil Conservation Service.

As I have said many, many times, the one thing we have behind all our activities is a strong country and we cannot let it go down the drain. A strong economy is essential if we are going to meet our problems. Certainly our economy will be strengthened if we protect our land, our soil, and our rivers and streams.

Some of the programs we provide for might be classified as consumer programs. But they have been in this bill a long time.

We provide $125 million for water and sewer grants, and $375 million for loans as proposed by the House. Thirty percent of these funds will go to expanding existing systems. I think one of the great things we have done throughout history for the American people is to provide rural electricity. Then we came along with rural telephones. Now we have come along with rural water systems. It adds to the wealth of the country, to the well-being of those in rural areas, and it is essential to our prosperity.

We also provide full funding for the WIC feeding program, food stamps, and child nutrition. We have provided funds for the full year with the cooperation of the President in that he recently sent a budget request down to match the cost.

We directed the Department to reestablish procedures for direct distribution of commodities in cooperation with local units of Government, as proposed by the House.

Now, we have had some of these surpluses distributed, without any system at all from what I understand. Certain areas will have it where the folks just throw it around and other places badly need these commodities.

I think that in many ways the distribution of surplus commodities was one place where you tied the rural population who are in farming to a great degree with the interests of the city population.

Anyway, we have asked the Department to come up with the mechanics to do this on a proper basis and I think it is one of the finest things we have insisted on. The Senate has gone along with us.

Mr. Speaker, we bring you a good bill, and we hope that we will have the support of all the Members in its passage.

Mr. Speaker, I will provide detailed tables for the RECORD at this point:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
TITLE I—AGRICULTURAL PROGRAMS							
PRODUCTION, PROCESSING AND MARKETING							
Office of the Secretary	4,999,000	5,406,000	3,884,000	3,884,000	3,884,000	−1,115,000	−1,522,000
Standard Level User Charges, USDA			56,377,000	56,377,000	56,377,000	+56,377,000	+56,377,000
Advisory Committees, USDA			1,398,000	1,398,000	1,398,000	+1,398,000	+1,398,000
Departmental Administration	15,018,000	13,647,000	13,166,000	13,166,000	13,166,000	−1,852,000	−481,000
Office of Governmental and Public Affairs	8,216,000	7,288,000	6,677,000	6,677,000	6,677,000	−1,539,000	−611,000
Office of Congressional Affairs	412,000	464,000	439,000	439,000	439,000	+27,000	−25,000
Office of the Inspector General	28,255,000	33,769,000	27,943,000	27,943,000	27,943,000	−312,000	−5,826,000
(Transfer from food stamp program)	(13,651,000)	(10,149,000)	(14,270,000)	(14,270,000)	(14,270,000)	(+619,000)	(+4,121,000)
Total, Office of the Inspector General	(41,906,000)	(43,918,000)	(42,213,000)	(42,213,000)	(42,213,000)	(+307,000)	(−1,705,000)
Office of the General Counsel	13,263,000	13,689,000	12,386,000	12,386,000	12,386,000	−877,000	−1,303,000
(Transfer from food stamp program)	(508,000)	(508,000)	(628,000)	(628,000)	(628,000)	(+120,000)	(+120,000)
Federal Grain Inspection Service	5,600,000	5,195,000	5,369,000	5,369,000	5,369,000	−231,000	+174,000
Inspection and Weighing Services (limitation on administrative expenses)	(60,260,000)	(44,313,000)	(44,313,000)	(44,313,000)	(44,313,000)	(−15,947,000)	
Agricultural Research Service	432,410,000	468,548,000	451,530,000	455,201,000	452,378,000	+19,968,000	−16,170,000
Special fund	2,000,000		2,000,000	2,000,000	2,000,000		+2,000,000
Buildings and facilities	8,596,000		850,000	2,750,000	1,927,000	−6,669,000	+1,927,000
Scientific activities overseas (foreign currency program)	450,000	2,977,000	2,977,000	2,977,000	2,977,000	+2,527,000	
Cooperative State Research Service	221,216,000	232,103,000	230,082,000	246,953,000	244,966,000	+23,750,000	+12,863,000
Extension Service	315,702,000	311,911,000	327,027,000	326,610,000	328,672,000	+12,970,000	+16,761,000
National Agricultural Library	8,750,000	9,016,000	8,849,000	8,849,000	8,849,000	+99,000	−167,000
Total, Research and Extension	989,124,000	1,024,555,000	1,023,315,000	1,045,340,000	1,041,769,000	+52,645,000	+17,214,000
Animal and Plant Health Inspection Service:							
Salaries and expenses	281,967,000	227,533,000	266,531,000	270,332,000	267,915,000	−14,052,000	+40,382,000
Buildings and facilities	3,000,000	2,386,000	2,386,000	2,386,000	2,386,000	−614,000	
Total, Animal and Plant Health Inspection Service	284,967,000	229,919,000	268,917,000	272,718,000	270,301,000	−14,666,000	+40,382,000
Food Safety and Inspection Service	333,272,000	319,876,000	315,557,000	315,557,000	315,557,000	−17,715,000	−4,319,000
Economic Research Service	39,360,000	40,584,000	37,251,000	38,251,000	37,751,000	−1,609,000	−2,833,000
Statistical Reporting Service	51,636,000	53,694,000	50,823,000	51,185,000	51,035,000	−601,000	−2,659,000
Agricultural Cooperative Service	4,639,000	3,683,000	3,999,000	5,000,000	4,639,000		+956,000
World Agricultural Outlook Board	1,491,000	1,535,000	1,353,000	1,453,000	1,403,000	−88,000	−132,000
Agricultural Marketing Service:							
Marketing Services	24,011,000	31,370,000	31,912,000	30,412,000	31,912,000	+7,901,000	+542,000
(Limitation on administrative expenses)	(23,000,000)		(30,910,000)	(30,910,000)	(30,910,000)	(+7,910,000)	(+30,910,000)
Funds for strengthening markets, income, and supply (Section 32) (by transfer)	(5,860,000)	(4,729,000)	(5,670,000)	(5,670,000)	(5,670,000)	(−190,000)	(+941,000)
Transportation Office	2,400,000	2,398,000	2,356,000	2,356,000	3,356,000	−33,000	−31,000
Payments to States and possessions	1,000,000		1,000,000	1,000,000	1,000,000		+1,000,000
Total, Agricultural Marketing Service	27,411,000	33,768,000	35,279,000	33,779,000	35,279,000	+7,868,000	+1,511,000
Packers and Stockyards Administration	9,183,000	8,564,000	8,268,000	8,668,000	8,668,000	−515,000	+104,000
Total, Production, Processing and Marketing	1,816,846,000	1,795,636,000	1,872,401,000	1,899,590,000	1,894,041,000	+77,195,000	+98,405,000
FARM INCOME STABILIZATION							
Agricultural Stabilization and Conservation Service:							
Salaries and expenses	63,077,000	62,046,000	54,699,000	55,962,000	55,962,000	−7,115,000	−6,084,000
(Transfer from Commodity Credit Corporation)	(314,681,000)	(314,818,000)	(314,818,000)	(314,818,000)	(314,818,000)	(+137,000)	
Total, salaries and expenses, ASCS	(377,758,000)	(376,864,000)	(369,517,000)	(370,780,000)	(370,780,000)	(−6,978,000)	(−6,084,000)
Dairy indemnity program	176,000		7,000,000	7,000,000	7,000,000	+6,824,000	+7,000,000
Total, Agricultural Stabilization and Conservation Service	63,253,000	62,046,000	61,699,000	62,962,000	62,962,000	−291,000	+916,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
CORPORATIONS							
Federal Crop Insurance Corporation:							
Administrative and operating expenses	117,600,000	293,703,000	262,140,000	235,200,000	235,200,000	+117,600,000	−58,503,000
Subscription to capital stock	250,000,000	250,000,000	200,000,000	150,000,000	150,000,000	−100,000,000	−100,000,000
Federal crop insurance corporation fund	57,456,000	173,233,000	143,233,000	143,233,000	143,233,000	+85,777,000	−30,000,000
Total, Federal Crop Insurance Corporation	425,056,000	716,936,000	605,373,000	528,433,000	528,433,000	+103,377,000	−188,503,000
Commodity Credit Corporation:							
Reimbursement for net realized losses	7,043,299,000	10,466,057,000	3,783,244,000	3,783,244,000	10,466,057,000	+3,422,828,000	
(Direct loans)			(500,000,000)	(500,000,000)	(500,000,000)	(+500,000,000)	(+500,000,000)
Authority to borrow	(5,000,000,000)					(−5,000,000,000)	
(Limitation on administrative expenses)	(2,200,000,000)					(−2,200,000,000)	
Total, Farm Income Stabilization	12,531,538,000	11,245,039,000	4,450,316,000	4,374,639,000	11,057,452,000	−1,474,086,000	−187,587,000
Total, title I, new budget (obligational) authority, Agricultural Programs	14,348,384,000	13,040,675,000	6,322,717,000	6,274,229,000	12,951,493,000	−1,396,891,000	−89,182,000
TITLE II—RURAL DEVELOPMENT PROGRAMS							
RURAL DEVELOPMENT ASSISTANCE							
Office of Rural Development Policy:							
Salaries and expenses [1]		2,501,000	2,142,000	2,000,000	2,000,000	+2,000,000	−501,000
Farmers Home Administration:							
Rural Housing Insurance Fund:							
Direct loans	(74,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)		
Insured loans	(3,700,600,000)	(1,121,000,000)	(3,261,000,000)	(3,391,000,000)	(3,261,000,000)	(−439,600,000)	(+2,140,000,000)
Construction defects authorization	(2,000,000)					(−2,000,000)	
Rent supplement authorization	(398,000,000)		(73,745,000)	(173,745,000)	(123,745,000)	(−274,255,000)	(+123,745,000)
Reimbursement for interest and other losses	575,087,000	1,109,722,000	1,109,722,000	1,109,722,000	1,109,722,000	+534,635,000	
Total, Rural Housing Insurance Fund	(4,301,687,000)	(2,254,722,000)	(4,394,722,000)	(4,524,722,000)	(4,394,722,000)	(+93,035,000)	(+2,140,000,000)
Agricultural Credit Insurance Fund:							
Real estate loans:							
Insured	(773,600,000)	(737,000,000)	(759,100,000)	(737,000,000)	(759,100,000)	(−14,500,000)	(+22,100,000)
Guaranteed	(131,000,000)	(81,000,000)	(81,000,000)	(81,000,000)	(81,000,000)	(−50,000,000)	
Total, real estate loans	(904,600,000)	(818,000,000)	(840,100,000)	(818,000,000)	(840,100,000)	(−64,500,000)	(+22,100,000)
Soil conservation loans	(30,000,000)		(30,000,000)	(30,000,000)	(30,000,000)		(+30,000,000)
Operating loans:							
Insured	(1,325,000,000)	(1,460,000,000)	(1,460,000,000)	(1,460,000,000)	(1,460,000,000)	(+135,000,000)	
Guaranteed	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)		
Total, operating loans	(1,375,000,000)	(1,510,000,000)	(1,510,000,000)	(1,510,000,000)	(1,510,000,000)	(+135,000,000)	
Emergency disaster loans	(1,600,000,000)	(1,540,000,000)	(1,540,000,000)	(1,540,000,000)	(1,540,000,000)	(−60,000,000)	
Economic Emergency loans				(600,000,000)	(600,000,000)	(+600,000,000)	(+600,000,000)
Reimbursement for interest and other losses	464,083,000	682,074,000	682,074,000	682,074,000	682,074,000	+217,991,000	
Total, Agricultural Credit Insurance Fund	(6,653,283,000)	(6,878,074,000)	(6,952,274,000)	(7,508,074,000)	(7,552,274,000)	(+898,991,000)	(+674,200,000)
Rural Development Insurance Fund:							
Reimbursement for losses	180,040,000	336,217,000	336,217,000	336,217,000	336,217,000	+156,177,000	
Water and sewer facility loans	(375,000,000)	(300,000,000)	(375,000,000)	(300,000,000)	(375,000,000)		(+75,000,000)
Industrial development loans:							
Guaranteed	(300,000,000)		(300,000,000)	(350,000,000)	(300,000,000)		(+300,000,000)
Community facility loans	(130,000,000)	(130,000,000)	(130,000,000)	(130,000,000)	(130,000,000)		
Total, Rural Development Insurance Fund	(985,040,000)	(766,217,000)	(1,141,217,000)	(1,116,217,000)	(1,141,217,000)	(+156,177,000)	(+375,000,000)
Rural water and waste disposal grants	125,000,000	120,000,000	125,000,000	125,000,000	125,000,000		+5,000,000
Very low-income housing repair grants	15,000,000	12,500,000	12,500,000	12,500,000	12,500,000	−2,500,000	
Rural housing for domestic farm labor [2]	13,750,000	12,500,000		10,000,000		−13,750,000	−12,500,000
Mutual and self-help housing	3,950,000		5,000,000	15,000,000	12,500,000	+8,550,000	+12,500,000
Self-help housing land development fund:							
(Limitation on direct loans)	(2,000,000)					(−2,000,000)	
Rural community fire protection grants	3,250,000		3,250,000	3,250,000	3,250,000		+3,250,000
Compensation for construction defects [3]		2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000	
Rural rental assistance payments [3]		185,000,000					−185,000,000
Salaries and expenses	281,510,000	294,206,000	286,870,000	291,706,000	289,288,000	+7,778,000	−4,918,000
(Transfer from loan accounts)	(3,500,000)	(3,500,000)	(6,000,000)	(6,000,000)	(6,000,000)	(+2,500,000)	(+2,500,000)
Total, salaries and expenses	(285,010,000)	(297,706,000)	(292,870,000)	(297,706,000)	(295,288,000)	(+10,278,000)	(−2,418,000)
Total, Farmers Home Administration	1,661,670,000	2,754,219,000	2,562,633,000	2,587,469,000	2,572,551,000	+910,881,000	−181,668,000
Rural Electrification Administration:							
Rural electrification and telephone revolving fund:							
Direct loans:							
Insured loans:							
Electric	(850,000,000)	(625,000,000)	(850,000,000)	(850,000,000)	(850,000,000)		(+225,000,000)
Telephone	(250,000,000)	(75,000,000)	(250,000,000)	(250,000,000)	(250,000,000)		(+175,000,000)
Total, Insured loans	(1,100,000,000)	(700,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+400,000,000)
Guaranteed loans:							
Electric	(5,000,000,000)	(3,615,000,000)	(4,600,000,000)	(4,600,000,000)	(4,600,000,000)	(−400,000,000)	(+985,000,000)
Telephone	(145,000,000)	(145,000,000)	(145,000,000)	(145,000,000)	(145,000,000)		
Total, Guaranteed loans	(5,145,000,000)	(3,760,000,000)	(4,745,000,000)	(4,745,000,000)	(4,745,000,000)	(−400,000,000)	(+985,000,000)
Rural telephone bank	(30,000,000)		(30,000,000)	(30,000,000)	(30,000,000)		(+30,000,000)
Direct loans	(160,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(+25,000,000)	
Rural communication development fund		91,000	91,000	91,000	91,000	+91,000	
Salaries and expenses	30,273,000	30,340,000	28,945,000	28,945,000	28,945,000	−1,328,000	−1,395,000
Total, rural Electrification Administration	30,273,000	30,431,000	29,036,000	29,036,000	29,036,000	−1,237,000	−1,395,000
Total, Rural Development Assistance	1,691,943,000	2,787,151,000	2,593,811,000	2,618,505,000	2,603,587,000	+911,644,000	−183,564,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
CONSERVATION							
Soil Conservation Service:							
Conservation operations	310,809,000	336,580,000	326,198,000	326,198,000	326,198,000	+15,389,000	−10,382,000
(By transfer)	(7,849,000)					(−7,849,000)	
River basin surveys and investigations	15,500,000	16,743,000	16,068,000	16,068,000	16,068,000	+568,000	−675,000
(By transfer)	(618,000)					(−618,000)	
Watershed planning	8,690,000	9,152,000	8,675,000	8,675,000	8,675,000	−15,000	−477,000
(By transfer)	(355,000)					(−355,000)	
Watershed and flood prevention operations	194,045,000	117,721,000	189,925,000	194,925,000	194,925,000	+880,000	+77,204,000
Resource conservation and development	26,500,000	10,312,000	25,744,000	25,744,000	25,744,000	−756,000	+15,432,000
Great Plains conservation program	21,500,000	15,308,000	21,315,000	21,315,000	21,315,000	−185,000	+6,007,000
Soil and water conservation grants		10,000,000					−10,000,000
Total, Soil Conservation Service	577,044,000	515,816,000	587,925,000	592,925,000	592,925,000	+15,881,000	+77,109,000
Agricultural Stabilization and Conservation Service:							
Agricultural conservation program	190,000,000	56,000,000	190,000,000	190,000,000	190,000,000		+134,000,000
Forestry incentives program[4]	12,500,000		12,500,000	12,500,000	12,500,000		+12,500,000
Water bank program[4]	8,800,000		8,800,000	8,800,000	8,800,000		+8,800,000
Emergency conservation program[4]	8,800,000					−8,800,000	
Total, Agricultural Stabilization and Conservation Service	220,100,000	56,000,000	211,300,000	211,300,000	211,300,000	−8,800,000	+155,300,000
Total, Conservation	797,144,000	571,816,000	799,225,000	804,225,000	804,225,000	+7,081,000	+232,409,000
Total, title II, Rural Development Programs: New budget (obligational) authority	2,489,087,000	3,358,967,000	3,393,036,000	3,422,730,000	3,407,812,000	+918,725,000	+48,845,000
TITLE III—DOMESTIC FOOD PROGRAMS							
Food and Nutrition Service:							
Child nutrition programs	1,082,890,000	963,310,000	544,105,000	896,324,000	896,324,000	−186,566,000	−66,986,000
(Transfer from sec. 32)	(1,763,948,000)	(2,214,690,000)	(2,281,676,000)	(2,281,676,000)	(2,281,676,000)	(+517,728,000)	(+66,986,000)
Total, Child nutrition programs[5]	(2,846,838,000)	(3,178,000,000	(2,825,781,000)	(3,178,000,000)	3,178,000,000	(+331,162,000)	
Special milk program	28,100,000		28,100,000	20,100,000	20,100,000	−8,000,000	+20,100,000
Feeding program for Women, Infants and Children (WIC)	904,320,000	1,060,000,000	652,000,000	1,060,000,000	1,060,000,000	+155,680,000	
Commodity supplemental food program (CSFP)	29,760,00	32,600,00	32,600,000	32,600,000	32,600,000	+2,840,000	
Food stamp program	11,300,000,000	10,815,657,000	9,541,707,000	10,896,000,000	10,815,657,000	−484,343,000	
Nutrition assistance for Puerto Rico		825,000,000	825,000,000	825,000,000	825,000,000	+825,000,000	
Food donations programs:							
Needy family program	48,220,000	65,200,000	65,200,000	56,266,000	56,266,000	+8,046,000	−8,934,000
Elderly feeding program	93,200,000	88,000,000	100,000,000	100,000,000	100,000,000	+6,800,000	+12,000,000
Total, Food donations programs	141,420,000	153,200,000	165,200,000	156,266,000	156,266,000	+14,846,00	+3,066,000
Food program administration	86,461,000	85,477,000	80,.146,000	82,976,000	82,146,000	−4,315,000	−3,331,000
Human Nutrition Information Service[6]		8,289,000	8,096,000	8,096,000	8,096,000	+8,096,000	−193,000
Total, title III, new budget (obligational) authority, Domestic Food Programs	13,572,951,000	13,943,533,000	11,876,954,000	13,977,362,000	13,896,189,000	+323,238,000	−47,344,000
TITLE IV—INTERNATIONAL PROGRAMS							
Foreign Agricultural Service	68,236,000	79,207,000	70,947,000	77,961,000	74,454,000	+6,218,000	−4,753,000
General Sales Manager (transfer from Commodity Credit Corporation)	(5,436,000)	(5,599,000)	(5,599,000)	(5,599,000)	(5,599,000	(+163,000)	
Public Law 480:							
Title I and III—Credit sales	325,127,000	378,000,000	378,000,000	378,000,000	378,000,000	+52,873,000	
Title II—Commodities for disposition abroad [5]	674,873,000	650,000,000	650,000,000	650,000,000	650,000,000	−24,873,000	
Total, Public Law 480	1,000,000,000	1,028,000,000	1,028,000,000	1,028,000,000	1,028,000,000	+28,000,000	
Office of International Cooperation and Development	3,627,000	3,703,000	3,578,000	3,578,000	3,578,000	−49,000	−125,000
Total, title IV, new budget (obligational) authority, International Programs	1,071,863,000	1,110,910,000	1,102,525,000	1,109,539,000	1,106,032,000	+34,169,000	−4,878,000
TITLE V—RELATED AGENCIES							
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Food and Drug Administration:							
Salaries and expenses	338,332,000	356,163,000	330,188,000	330,188,000	330,188,000	−8,144,000	−25,975,000
Standard Level User Charges			18,942,000	18,942,000	18,942,000	+18,942,000	+18,942,000
Total, Food and Drug Administration	338,332,000	356,163,000	349,130,000	349,130,000	349,130,000	+10,798,000	−7,033,000
INDEPENDENT AGENCIES							
Commodity Futures Trading Commission	20,712,000	22,999,000	22,592,000	22,999,000	22,892,000	+2,180,000	−107,000
Farm Credit Administration (limitation on administrative expenses)	(16,372,000)	(17,954,000)	(17,954,000)	(17,954,000)	(17,954,000)	(+1,582,000)	
Total, title V, new budget (obligational) authority, Related Agencies	359,044,000	379,162,000	371,722,000	372,129,000	372,022,000	+12,978,000	−7,140,000
RECAPITULATION							
Title I—Agricultural programs	14,348,384,000	13,040,675,000	6,322,717,000	6,274,229,000	12,951,493,000	−1,396,891,000	−89,182,000
Title II—Rural development programs	2,439,087,000	3,358,967,000	3,393,036,000	3,422,730,000	3,407,812,000	+918,725,000	+48,845,000
Title III—Domestic food programs	13,572,951,000	13,943,533,000	11,876,954,000	13,977,362,000	13,896,189,000	+323,238,000	−47,344,000
Title IV—International programs	1,071,863,000	1,110,910,000	1,102,525,000	1,109,539,000	1,106,032,000	+34,169,000	−4,878,000
Title V—Related agencies	359,044,000	379,162,000	371,722,000	372,129,000	372,022,000	+12,978,000	−7,140,000
Total, new budget (obligational) authority	31,841,329,000	31,833,247,000	23,066,954,000	25,155,989,000	31,733,548,000	−107,781,000	−99,699,000
Transfer from sec. 32 (Customs Receipts)	1,769,808,000	2,219,419,000	2,287,346,000	2,287,346,000	2,287,346,000	+517,538,000	+67,927,000
Total obligational authority	33,611,137,000	34,052,666,000	25,354,300,000	27,443,335,000	34,020,894,000	+409,757,000	−31,772,000
Memoranda:							
Direct and insured loan level	9,222,200,000	6,197,000,000	8,864,100,000	9,497,000,000	9,464,100,000	+241,900,000	+3,267,100,000
Guaranteed loan level	5,626,000,000	3,891,000,000	5,176,000,000	5,226,000,000	5,176,000,000	−450,000,000	+1,285,000,000
Rent supplement authorization	398,000,000		73,745,000	173,745,000	123,745,000	−274,255,000	+123,745,000
Transfers from Commodity Credit Corporation	314,681,000	314,818,000	314,818,000	314,818,000	314,818,000	+137,000	

[1] Previously financed under FmHA Salaries and expenses.
[2] House amount reflects reappropriation of $12,500,000 from unexpended balances.
[3] Previously financed under the Rural Housing Insurance Fund.
[4] Fiscal year 1983 est. combined with, and included under ACP.
[5] CBO estimate of request outlays reflects non-enactment of proposed legislation.
[6] Transferred from ARS and NAL.

1983 BUDGET AMENDMENTS.—RECEIVED SUBSEQUENT TO HOUSE AND SENATE CONSIDERATION OF H.R. 7072

Program	Amount	House document	Date
Commodity Credit Corporation net realized losses.	+$6,682,813,000	97-257	Nov. 30, 1982.
Food stamps (full year funding).	+1,273,950,000	97-262	Dec. 6, 1982.
Child nutrition programs (full year funding).	+352,219,000	97-262	Do.
WIC (full year funding)	+408,000,000	97-266	Dec 9, 1982.
Commodity supplemental food program (to maintain current level).	+32,600,000	97-266	Do.
Total	+8,749,582,000		

I have had a chance to call attention to these problems to the President and the Secretary of State. I have done it by letter and personally. But I also find that many of our colleagues need to understand that we in agriculture not only have all of these problems that are related to consumers, but we also have the job of seeing to it that we do not follow policies that take farmers out of the business of providing food for all of us.

CONCLUSION

Mr. Speaker, I would like to note how fortunate we are in the membership of the committee. I would like to say to the House that through the years my colleagues on this committee have done a tremendous job. This year particularly, they have all made major and essential contributions to the development of this bill.

Mr. Speaker, may I say that I would particularly like to express my appreciation of the gentlewoman from Nebraska, Mrs. VIRGINIA SMITH, as the ranking minority member of the subcommittee, for her diligent and thoughtful work in developing this legislation. I would also like to add my thanks to the gentleman from Michigan (Mr. TRAXLER), our ranking majority member, the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from New York (Mr. MCHUGH), the gentleman from Kentucky (Mr. NATCHER) who I have worked closely with for many years now, the gentleman from Texas (Mr. HIGHTOWER), the gentleman from Hawaii (Mr. AKAKA), and the gentleman from Oklahoma (Mr. WATKINS). I would also like to commend our other minority members, the gentleman from Virginia (Mr. ROBINSON), the gentleman from Indiana (Mr. MYERS), and the gentleman from California (Mr. LEWIS).

Mr. Speaker, may I also say it has been a pleasure this year, not only on this bill but all bills we deal with, to work with the gentleman from Massachusetts (Mr. CONTE), the ranking minority member of the full committee.

Mr. Speaker, all of these people have done a marvelous job, and we have been able to bring this bill to you because the House has confidence in them and in their efforts on this bill, which is so important to the standard of living of every American. I give my personal thanks to each and every one of them.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from Arkansas.

□ 1115

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Speaker, a number of us have expressed great concern over the inability of a large percentage of our farmers to repay the obligations that are due to the Farmers Home Administration because of the disaster year that they have had in 1982 and the preceding years. Action has been taken in this body, which is pending in the Senate, to provide for a moratorium on farm debt to permit farmers to continue farming that receive their credit from the Farmers Home Administration.

I am advised that the conference committee in effect put in the report language which reenacted the existing law and did not treat this very difficult question that we have debated here on providing a moratorium for our farmers.

Could the chairman respond to the thinking of the conference in being unwilling to treat this very difficult question.

Mr. WHITTEN. May I say that we do not have the authority to write legislation on an appropriations bill. We have used our position as best we knew how to get the Department to use their existing authority to declare a moratorium on foreclosures in proper cases, to stretch out payments in proper cases, and to work with private lenders to refinance or defer repayment where appropriate, because in foreclosure they reduce the value of farm commodities. We, of course, have no authority over private lenders. But the legislative committee would have to write what the gentleman refers to. All we can do is call on them. If we say "you must," that is legislation. We have done everything we can.

Mr. ALEXANDER. I appreciate the gentleman's response. We are limited on appropriations bills. And the subject of farm debt moratorium is an issue that we must treat in a legislative bill which must be brought to the floor separately from an appropriations matter.

Mr. WHITTEN. This is beyond our reach in an appropriations bill. We make our intention as clear as we know how. And the Secretary already has authority he can exercise where the Farmers Home Administration is concerned.

Mr. ALEXANDER. I thank the gentleman.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman for addressing this particular problem. I think it is appropriate and it is time that we address in a rational manner and organized manner the possibility of renewing a distribution of surplus commodities at a time when food stamps are being drastically cut back, and also at a time when we have surplus commodities—it looks like it would be a good marriage and not be doing something in a loose organization.

Mr. Speaker, through the gentleman's leadership the gentleman is looking at that and addressing that problem and I commend him.

I would like to say in this particular bill the Agriculture and Rural Development Appropriations Subcommittee that the gentleman chairs has done its best to try to address the problems of agriculture within the overall limitations that we have, especially a limitation of dollars.

Also we have begun to try to address the other facet of rural development as much as we can. Rural development goes hand in hand with agriculture.

This year the American farmers earned two-thirds of their income off the farm, only a third of it on the farm. That means they had to have a job or some additional income. So we have got to have a rural development program. And the gentleman has attempted to work on this program.

As the gentleman well knows, the late Senator from Minnesota, Hubert Humphrey, in 1972, with the Rural Development Act, many of my colleagues worked with him, passed a program, but we did not receive the funding in 1980. We had a program. We are trying to get some emphasis placed on it. And in this bill we have indicated to the Secretary that under the national rural development strategy a portion of it should go to trying to have a job creation program through technology and industrial innovation, and trying to build the necessary jobs out in rural America.

Mr. Speaker, I commend the gentleman for that, and I thank him for his leadership in that area.

Mr. WHITTEN. I appreciate the very valuable Member from Oklahoma and the contributions he has made.

Eighty-six percent of the land in the United States is classified as rural. Do my colleagues know in agriculture we have less than 4 percent of the popula-

tion. But they have the biggest investment of any group in the world. They have the highest risks. If we keep their production bottled up in the United States at a time when the world is begging for it, not only is it a shortsighted foreign policy but it will lead to disaster for those engaged in agriculture.

There are few rural people. But may I say that they are the key part to our economy and overall well-being.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for the conference report on H.R. 7072, making appropriations for agriculture, rural development, and related agencies for 1983 and yield myself such time as I may consume.

Our chairman, Mr. WHITTEN, and all the members of the committee in both Houses have worked long and hard to bring you an agriculture appropriations bill that is under the budget and before you in time to avoid funding our critical agriculture, rural development, and domestic feeding programs through another stopgap continuing resolution.

Let me say to the Members that I have talked personally with Office of Management and Budget Director, Dave Stockman, and he assures me that our bill is within the budget and that he will not be recommending a veto as he was with earlier versions of the measure.

The original House-passed version did not contain full funding for food stamps, child nutrition, or WIC. Legislation proposed, along with the original administration budget request, was not passed—so consequently funding needs were higher than originally estimated. The House committee has now received formal budget amendments from the administration which will allow for full year funding of these feeding programs.

Also, the House and Senate bill contained a mandatory $500 million direct export credit program to help get rid of our market depressing grain supplies. This funding provided through the Commodity Credit Corporation revolving fund has been made discretionary with report language instructing the Department of Agriculture to use the earmarked money for expansion of the successful "blended credit" program.

USDA has obligated $440 million in a combination of direct and guaranteed credits for Morocco, Eygpt, Yugoslavia, the Philippines, Pakistan, Brazil, and Portugal. These credit offers, if fully utilized, will result in additional export of 2.075 million metric tons of wheat, 350,000 metric tons of corn, 1.85 million metric tons of soybean products, and 43,000 bales of cotton. The committee expects the USDA to expand this effort.

Mr. Speaker, I want to remind the Members that this bill, with the new budget amendments submitted by the President, is below last year's appropriations by $107 million and below the President's request by $99 million.

American agriculture is facing its fourth straight year of depressed income—according to experts speaking at the USDA's annual Outlook Conference. We need the critical funding contained in this bill for agricultural price supports, export promotion, research and extension, conservation, farm lending, and a host of other activities so important to this Nation's largest and most important industry.

Since the Depression there has not been a time when a strong agriculture appropriations bill is needed more. Agriculture is experiencing its third straight year of falling income. The USDA recently announced their estimate of 1982 agricultural income at $19 billion, down from $19.6 in 1981 and $24.4 in 1980.

The cost price squeeze continues with prices paid by farmers increasing 9 percent while their incomes have fallen 5 percent in the past 2 years.

Farm indebtedness is 12 times higher than farm income—the highest ratio ever.

On top of poor commodity prices borrowing power is being eroded by decreased land values for the first time in 30 years. As of June 1, 33.9 percent of the loans by Farmers Home Administration were delinquent.

I will not go on, but I could. What is most important for me to get across is that the agricultural industry must recover if we are to ever expect recovery in the rest of the economy.

Being larger than the auto, steel, and housing industry combined, and with more workers than any other industry, agriculture has a very large impact on the general economy.

A recent study completed by Chase Econometrics shows that full recovery cannot be achieved without recovery in the agricultural sector. The study shows that depressed farm prices are causing a national loss of $2.2 billion in gross national product, $4 billion in disposable personal income, and $2.8 in net farm exports.

Contrary to other industries agriculture is not undercapitalized or suffering from a decline in productivity, rather it is a victim of its own success. Our food production capacity is the envy of the world. It provides the basis for American consumers to spend less of their disposable income on food than any other group of people in the world. However, when our production is greater than demand and surpluses pile up, it means bad times on the farm and ranch.

One note about our overproduction and that is to say that supply is only large relative to demand. Anyone who is knowledgeable about our international market will agree that this industry's marketing base has been ruined by embargo after embargo and the food weapon has been used at considerable detriment to our demand side of the marketing equation.

The small amount of funds provided in this bill for agricultural programs are needed to help repair the market damage and protect our most important natural resource—that being the food producing capacity of American agriculture.

The committee provides $1,023 billion for agriculture research and extension activities. This is $34 million more than last year and demonstrates our commitment to maintaining the critical scientific work that has been probably the most important factor in expanding our production and efficiency. Science must now play a leading role in finding new uses for our products, pioneering less expensive methods of production, developing systems that do a better job of preserving our soil and water resources, and delivering that knowhow to the producers through our Cooperative Research Service.

For protection of plants and animals from pests and disease the committee has provided $288 million—down slightly from last year—but at adequate levels to continue the battle against disease and pests

The committee has decided to restore funding for such control programs as golden nematode, grasshopper, gyspy moth, imported fire ant, witchweed and several other important programs that have proven effective over the years.

Rural development through the activities of the Farmers Home Administration is funded at levels that will allow the Department to maintain or in some cases increase its participation levels. We have provided the request for higher FmHA operating loan levels in order to see that producers have more adequate access to last resort lending during these hard times.

The Rural Electrification Administration is continued at virtually the same levels as last year. REA has provided a critical link in facilitating the modern and efficient agriculture we see today. It has also improved the living standard of our rural population. If it were not for past rural electrification programs our rural people would not enjoy the convienences of modern day living.

In an effort to halt our very serious land and water erosion problem your committee has restored, as we are forced to every year, the funds for conservation and forestery efforts. Almost every major publication in this country has run stories on our critical erosion situation. Our intensive farm-

ing practices and push for volume to make up for low prices has aggravated the loss of our farmland.

Producers can not bear the expensive erosion control measures by themselves. It is to society's benefit that everyone join in the effort to preserve our natural resource base. As my chairman has said so many times—all real wealth is linked to the soil and if we destroy that resource we are destroying our foundation.

As I mentioned earlier the food and nutrition programs that provide the needed assistance for low-income American's are also funded in this bill. The committee has only provided full funding of the food stamp, child nutrition, and women, infants, and children programs.

H.R. 7072 also funds the international agricultural programs. The Foreign Agriculture Service will be receiving $7.5 million more in 1983 than in 1982. The primary function of this organization is to help American agriculture in maintaining and expanding foreign markets for agricultural products, so vital to the economic well being of the Nation.

I and the entire committee remain very concerned about our lack of an effective way to combat the loss of our overseas markets. Other exporting countries are using every means available to export their surplus, eating away at our markets, and eroding the earning potential of our own producers.

One of the reasons our producers were able to take advantage of increased demand for grain during the 1970's was the fact that we had been operating a strong Public Law 430 concessional sales and food donation program. In addition, USDA operated a very successful direct loan program for financing export sales. These programs were used for market development and gave us the leading edge that allowed the United States to capture most of the world grain and vegetable oil market.

The committee believes that now is the time to revive export credit activities. Our carryover supplies of wheat, feed grain, soybeans, and dairy products has reached unmanageable levels. We can no longer sit back and hope that the export situation will change or that some disaster will increase demand for our products.

The export credit program funded out of CCC existing authority at $500 million will help get rid of our products by offering terms and conditions more favorable than commercial lenders. If used in conjunction with funds provided in the budget reconciliation measure this program could be very effective in raising commodity prices by reducing inventory and could also reduce Government price-support assistance.

I urge a "yes" vote on H.R. 7072 and ask unanimous consent to revise and extend my remarks.

Mr. JEFFORDS. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentlewoman for yielding.

First I just have a question which I would like to inquire of the chairman.

In looking through the conferees' report, I have been unable to find specific reference to the wool research program. It is my understanding from discussions with staff that there is money available in there as there was in the House bill or similar thereto.

I wonder if the chairman would be able to answer that question for me.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. We have met that problem. I think it will be satisfactory to the gentleman.

Mr. JEFFORDS. I thank the gentleman for his comment.

I would also raise another question which I am not fully prepared at this time to discuss but will be looking into when we get into the areas of disagreement. That is with respect to the limited resource loans, or the ability of people with limited resources to take part in the FmHA programs.

It is my understanding, although I am checking it out, that the word "shall" applies to insuring that 20 percent of these loans are available for people in limited resource programs. It is my understanding that the conference report changes the word "shall" to "may" and realizing there is some concern and confusion as to what the status of the FmHA programs are right now, since the Senate has not acted on the House bill, I wonder if the chairman has any information with respect to that?

Mr. WHITTEN. The Senate included a number of legislative provisions of which the gentleman discusses one. A direction of "not less than shall" in the bill would be legislation. The Senate had it in that way, so it was legislation. We resisted all the legislation they had, included, which is what we should do.

The word "may" is not legislation. But there is no question but what the Senate knows how we feel, and we feel that the word "may" would take care of it. At any rate we could not agree to the Senate amendment.

Mr. JEFFORDS. I understand. It seems to me this is a confusing situation with the expiration of the existing FmHA law—but the existing law is "shall." It seems that the legislative change is in reality being made, not unmade. I just raise that question. I do not have the answer to it. But I would hope, and I am sure the chairman recognizes, if that discretion is not exercised it will probably mean there will be no new young farmers coming in except those who have rather wealthy resources. And I would hope that the committee, along with our committee, would excerise oversight to insure that we do not preclude even though we have some difficult situations now as far as surpluses of young farmers being able to get into business.

□ 1130

Mr. WHITTEN. Over the years, on occasion, we have included legislation by request here in the House, never asking for a rule to waive points of order where one objection could knock it out. Our rules do prohibit us from legislating on an appropriations bill, and where the Senate had added legislation we tried not to bring it back.

I trust they will use the word "may" as though it means "shall" because we made it quite clear we expect this.

Mrs. SMITH of Nebraska. I thank the chairman.

Might I add that in my home State of Nebraska FmHA used the full 20 percent, but in some other States there were not enough applicants who qualified, so it was not possible to use the full 20 percent allotment.

Mr. MYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding me this time.

I rise in strong support of this conference report. The appropriation bill for agriculture is very, very important to rural America and even for our country; but really, I believe the most important part of this conference report is in the report language itself. The gentlewoman from Nebraska mentioned this. The chairman has mentioned it.

On pages 13 and 14 where we address the surplus problem that we have in rural American farms today with agricultural products, particularly grain, and also dairy products, we not only encourage, but we strongly tell the Department of Agriculture to dispose of these surpluses through world markets. We have not done this in the past. We have been able to move along and say we will go ahead and build up these big surpluses, store them as we did with dairy surpluses in the country, we still have a large surplus and we are giving it away. We are suggesting here that we dispose of our surpluses in world markets. I think this report language itself is a most important part, possibly the most important part of this conference report. I am sure we are going to hear more about that.

The department is going to be watched very closely, not only by this committee, but the Congress, to make sure that we start working very, very diligently to start disposing of our surpluses.

I am proud that our chairman and our ranking member worked very hard in that direction to make sure that we do dispose of those surpluses—good job.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I thank the distinguished chairman for yielding this time.

I wish to commend the chairman and the distinguished gentlewoman from Nebraska, the ranking minority member, for bringing to us an excellent conference report. This is the bill which will fund American agriculture in all its forms. I think the committee and its leadership has done an outstanding job.

Mr. Speaker, I rise in complete and enthusiastic support of the conference report on H.R. 7072, the agricultural appropriations bill for fiscal 1983. I want to commend our chairman, Mr. WHITTEN, for once again doing all in his power to maintain the House position on as many programs as possible in conference, while having an unswerving respect for not exceeding any budgetary limitations.

Mr. Speaker, in these times of reducing the size of the Federal deficit, agriculture is providing its share. This bill is nearly $108 million below the bill for fiscal 1982, despite the fact that there are increasing needs for many of USDA's programs, be they farm credit programs or feeding programs. We are nearly $100 million below the President's amended budget request as well.

I want to take a few minutes to address some of the highlights of this bill. There are some very key projects funded with this bill, and I believe that it is important that all of our colleagues understand what is in this bill.

Title I provides funding for the agricultural programs operated by USDA. One of the very key programs included in this portion of the report is agricultural research. If we are to maintain low food prices for consumers and low costs for farmers so that they have an opportunity to maintain a reasonable standard of living, such research is crucial for the future of these two interests.

We maintain directions for using funds for soybean genetic varietal research in this report. The House report on the 1983 bill provided such direction, and since the Senate did not disagree with us on this point, there was no need for the conferees to make any additional statements of direction to the Agricultural Research Service. I am sure we will be discussing the progress on this work at our fiscal 1984 hearings.

For the Cooperative Research Service, we restore a number of special grant projects that are crucial to Michigan. Included in this list are $34,000 for dairy photoperiod research, and $99,000 for bean flour research. The Senate had already accepted $97,000 for the Saginaw Valley Bean and Beet Farm, and $96,000 for blueberry shoestring virus research work, so that it was not necessary for these items to be addressed in conference.

We provide $17 million for the competitive grants program, and while this is the accepted compromise, I maintain my concerns about the necessity of such a competitive process as opposed to a more traditional contract grant award. USDA has yet to convince me of the value of this method of operation. I do not at all doubt the quality of the research, but if we are to be forced to reduce spending for many programs, then I want to be certain that the programs we do fund operate as efficiently as possible.

We restored a number of programs for the Extension Service, including the farm safety program, the urban gardening program, and $2 million in new funds for the promising renewable resources program. The Extension Service does an admirable job of helping farmers understand the new developments that can help them improve their methods of farming. The agency has shown that it is worthy of our support, and for this reason will continue to have it.

In the Animal and Plant Health Inspection Service, we have provided a little more than $84.2 million for the brucellosis eradication program, including such sums as may be required for whole herd depopulation. We have this disease under control, and it is only through continued vigilance that we will keep it that way. The administration's proposals to reduce the program were ill-advised, and were rejected on that basis. I am pleased that we were able to provide nearly a $7 million increase over the House figure, because this program is important and deserves the funding.

For the Statistical Reporting Service, we also maintain the $25,000 for statistical reporting work on dry bean acreage in Michigan. The project should be completed during fiscal 1983.

We provide an increase over the House figure for the Agricultural Cooperative Service, recognizing that it is essential that cooperatives obtain more assistance in export marketing efforts. Cooperatives have helped farmers tremendously, and we must continue to support them if we are to support agriculture.

Under the Commodity Credit Corporation, the state of managers advises the Secretary to not charge the 50 cents per hundredweight fee on milk until such time as he regularly offers dairy products for sale in the world market at competitive prices. I regret that we were not successful in placing this language in the bill, but our resolve is just as strong: We want these products sold so as to not be a drag on the U.S. market and a source of constant harassment of dairy farmers who are simply trying to maintain a standard of living.

The committee provided admirable support for programs offered by the Farmers Home Administration under title II of the bill. Farmers need credit to continue operations, and rural areas often do not have banking institutions which will make loans in the absence of FmHA guarantees. For this reason, we continue to support FmHA programs, recognizing that our budgetary situation does not allow us to provide as much support as we might like.

Title III is the title of controversy. In this section of the bill we provide funding for all of USDA's feeding programs. It is essential that everyone of our colleagues understand how strongly our chairman held out in order to get the President to request proper levels of funding for the feeding programs. The Senate appeared to be $2 billion over the House bill, and it was only after the President submitted the requests demanded by Mr. WHITTEN that we agreed to the higher figures.

No one should misunderstand our intentions. Our subcommittee is committed to adequate funding for all feeding programs. But when the budget plays games with how much money is needed, we must stand firm and force the administration to be honest about how much money is needed.

Child nutrition programs are provided with adequate support to continue at essential levels. We rejected the ill-fated block grant proposal several months ago when it was proposed because it is beyond the scope of the appropriations committee to act on such matters, and I am sure it will be rejected again next year.

The real potential center of controversy on this bill will be found with the language contained in the statement of managers regarding the women, infant and children's feeding program. Let us not lose sight of the fact that the real issue with this program that should have your interest is the level of funding. We have provided $1.06 billion, so that we can have this program fully funded for the year. But attention is being drawn to this report language nonetheless.

This is one of the most misunderstood sections of our action. We are

not suggesting that we are going to force children to eat food that is harmful to them as some have suggested. All we are doing is saying that any changes in the food package not yet implemented—and this includes regulations which were issued in November of 1980, have been delayed several times, and are still not yet required and will not be until the end of this month—meet a scientific standard. We want the decisions on the WIC food package to be based on comprehensive scientific evidence, not the whims of some who have a particular disagreement with a certain food item.

WIC was created by Congress in 1972 under the direction of the late Senator Hubert Humphrey to prevent iron deficiency anemia, a problem of particular significance for low-income women and children because of their need for iron at this time of physical development.

Since that time, WIC has been praised as the most successful program in improving the nutritional status of the eligible population. All of this has happened without any limits on sugar in breakfast cereals, and it is these limits that now have us concerned.

USDA wants to force a 6-gram limit on sugar. There is substantial doubt of the sufficiency of the scientific evidence that was the basis of this change. The materials provided with the regulations in November 1980 did not indicate that the decision to limit sucrose was being made by scientific experts. Rather, it simply said that sugar needed to be limited even though there has been no scientific basis.

As recently as 2 weeks ago, the Food and Drug Administration reaffirmed the generally regarded as safe (GRAS) status of sugar, saying that at present consumption levels that there is no danger to health, barring those situations where people have particular sensitivities such as diabetes.

USDA wants to ban cereals. What are those cereals? Raisin Bran, Buck wheat and Instant Cream of Wheat in three flavors: apples and cinnamon, bananas and spice, and maple and brown sugar. None of these cereals are the type of foods that some people believe are generally of questionable value. Kelloggs has no intention of putting Fruit Loops on the program, and no one should act as if they do.

The point is a simple one: We want the food package standards based on science. If the science is there to keep a particular food out, then it should be kept out. If the science is not there, then we should not force the value judgments of some upon poor people who cannot react.

We want to maintain the nutritional quality of the WIC food package, and we believe the only way to do this is to take the selection process to a level of scientific adequacy. Responsible scientists do not believe that it is possible to impose a limit on a single constituent of a food in order to improve or enhance a total diet, and we believe this fact should be a critical factor in deciding what to do about the food package.

Our statement also addresses a very critical problem with administrative funding for the commodity supplemental feeding program. The local operators have lost administrative support on a per participant basis because of the fact that USDA has changed its method of procuring food since the last time the authorizing committee had an opportunity to review the matter. For this reason, our report directs the Department to supplement the administrative grant with funds from section 32 and CCC in order to more adequately provide for the full administrative cost of the program. We also direct the Department to reassess the method of giving administrative funds so that it reflects the food package and not merely the number of people. Not all programs provide the full food package, and should not, therefore, receive full administrative support. The current method of providing administrative funds does not consider this factor. We will be paying close attention to further developments on this issue.

Under the general provisions portion of the bill, the conferees rejected changes in the dairy standards of identity because the matter is beyond the jurisdiction of the appropriations committee. However, our report does recognize the fact that the proposal deserves further attention, and we urge the appropriate legislative committees to take action as soon as possible on the proposal.

Mr. Speaker, this report provides funds for many essential programs. It deserves the support of all of our colleagues.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I have some questions of clarification for either the chairman or the gentleman from Michigan concerning the conference report with regard to the WIC program, under general provisions, title VI.

I have carefully read the language—prompted and motivated to read this language carefully—because of recent newspaper accounts which have indicated that rules and regulations have been changed or legislation has been modified regarding the WIC program to the effect that now, if we understand the newspaper accounts, for the first time sugar-coated cereals will be an approved food for WIC standards.

The language here, however, is somewhat ambiguous and I would like clarification. The report states that standards for the composition of the food package should be made on "comprehensive scientific evidence necessitating the consideration of a food item as a whole and not eliminating any food item based on a single component thereof."

Well, now, it seems to me that is irrelevant language. Could the gentleman explain whether that is permissive with regard to sugar-coated cereals and, if so, who makes the judgment and how is the scientific determination made?

Mr. TRAXLER. Mr. Speaker, if the gentlewoman will yield, I assume the distinguished gentlewoman is a friend of the WIC program and wants to see it continued.

Mrs. ROUKEMA. Yes.

Mr. TRAXLER. I am pleased to welcome the gentlewoman to the committee's viewpoint.

The subcommittee, as I am sure the gentlewoman from Nebraska (Mrs. SMITH) will tell us, as well as our distinguished chairman, Mr. WHITTEN, has been a zealous guardian of this program and its funding. The record clearly indicates this.

Happily, the world of reality and the methods and the decisions of the Congress are far more rational than are oftentimes reported in the press. You know, on a quiet day, reporters oftentimes do not have very much to do and in order to have a story, some of them become imaginative. If the gentlewoman has read some of the press reports on the pay raise votes yesterday, I am sure she was quite surprised to note the wire service's interpretation of those votes.

What we are really talking about here is reality and not the press, so let us talk about what the facts are. The fact is that sugar cereals have always been eligible for inclusion in the WIC program. The way in which a particular food item gets in the WIC program is that the manufacturer makes a request of the U.S. Department of Agriculture for its inclusion. The U.S. Department of Agriculture notes that and requests public comments on such an item being included in the WIC program. This has not changed in the report language.

What we are asking the Department to do—and the Department does not have to include the item; it makes its own determination—but what we are saying is that for future inclusions, please do it, first, on the basis of scientific evidence, and second, on the basis of the total ingredients of the item.

I cannot understand how anyone could object to that kind of a standard being established. Heretofore we have not had any guidelines for the WIC program. What we are saying is please do this on the basis of some objective

criteria and not necessarily politics or whims.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman. That is a helpful clarification.

The SPEAKER pro tempore. The time of the gentlewoman from New Jersey has expired.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 1 additional minute to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentlewoman.

I would like to note, I would hope that the RECORD would show that it is the intention of the committee that this be done on scientific evidence and that when the Department of Agriculture does make its determination, there is full consideration of medical evidence, as well as dental testimony by the dental societies and nutritionists as to the efficacy of the foods included.

Mr. TRAXLER. I think the gentlewoman is totally correct. Scientific evidence, and certainly if that is scientific evidence, then it ought to be considered, and that is the purpose of the language and none other.

I deeply regret the misunderstandings that were created as a result of some newspaper articles which were highly imaginative.

Mrs. ROUKEMA. Well, I think this colloquy should be helpful.

Mr. TRAXLER. I hope so, too, and I thank the gentlewoman for her support of the WIC program.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I wonder if I might ask a question of the distinguished chairman.

The bill went out of the House at about $23 billion, went out of the Senate at about $25 billion, and came back in the conference report at nearly $32 billion, which is nearly $9 billion over the House total and $6½ billion over the Senate total.

As I computed when it left the House, the bill was one-half of a billion dollars over our budget in both outlays and BA; so it must be something like $9 billion over now.

I wonder if the distinguished chairman could explain those discrepancies and how the gentleman could bring back a conference report that is so far over both the House and the Senate versions.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, the conferees acted on the revised requests submitted by the President.

In the WIC program, the original request had enough money for about half a year, so we appropriated what money was requested by the President.

Subsequent to House action, but prior to the conclusion of the conference, the President sent Congress a request for the full year.

In addition to that, the subsequent request by the President on the Commodity Credit Corporation was for an additional $6.7 billion. The Commodity Credit Corporation, as the gentleman knows, does so many things in the way of supporting prices and other things that their capital was impaired and the President's recommendation was an urgent request for an additional $6.7 billion for the Commodity Credit Corporation. These funds are to carry out the obligations of the Government and of the Commodity Credit Corporation. All of these increases were backed up by urgent requests from the President of the United States. They are urgent and necessary right now; so we agreed. I called attention to it in my remarks earlier, that the conference agreement does include these official requests by the President and they are emergency in nature, as the committee determined.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

The committee did, however, exceed the scope of the conference committee by a considerable number of dollars; is that correct?

Mr. WHITTEN. Well, personally, I say that outlays are controlled by the executive branch, as the gentleman knows. This additional $6.7 billion for CCC is budget authority, not outlays. The Commodity Credit Corporation restorations are not listed as outlays, and because the corporation had its capital impairment restored does not necessarily mean that they will spend it.

I repeat again what we all know. Money appropriated does not come out of the Treasury until it is spent. In this case, the President said additional funding was needed. We provided it and I think it does not violate any of the overall ceilings imposed in the substitute budget resolution which may I tell the gentleman was unrealistic in many ways because it left out $5 billion needed by the CCC.

The SPEAKER. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 1 additional minute to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentlewoman for yielding.

May I ask one final question. In the opinion of the distinguished chairman, is there some likelihood that supplementals will be required for any of the items in this appropriation?

Mr. WHITTEN. May I say that I work up here and others work downtown. There are certain obligations that are fixed by law. So far as I know, this will meet the need. So far as the President's estimate is concerned, this will meet the need. But nobody can tell when things like the flood in Arkansas will occur, which has a disastrous effect on agriculture, there is no way to foretell. But when those things do come up, they will have the serious attention of this committee.

We are very proud of our record of holding down expenditures. As the gentleman knows, not all our problems come from the Appropriations Committee. We have been below the administration's appropriations requests in 37 out of 39 years. It is backdoor spending that creates our overall budget problems as well as entitlements, which of course come from the legislative committees.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished chairman.

Mr. Speaker, the chairman of the Appropriations Committee has told us that this bill is approved by the administration, is within the budget, and will require no supplementals.

I agree that commodity programs have escalated beyond our expectations and must be funded. But they, and other features of this bill, are monstrously over our budget.

The same is true of the WIC and food stamp programs. They are way over budget, too. As best I can compute, this bill is more than $9 billion over our budget resolution.

Our commodity programs account for about $6 billion of this total and WIC and food stamps make up most of the rest. Because our laws say so, we must pay those bills, but I object to describing this conference report as under the budget.

Although our chairman says differently, most observers believe that a supplemental appropriation will be needed to fund extra food stamp costs. I do not like planned supplementals. We ought to know the truth now.

I voted against this bill when it passed the House because it was over the budget. I do not object to paying due bills. I do object to overspending in discretionary accounts. This bill overspends in discretionary items and I feel compelled to vote against it.

We went to a lot of trouble to pass a budget. The American people ought to be able to rely on it. It is all right to breach the budget if surpluses and recessions force costs up. But it is not all right to bust the budget on discretionary spending.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I would like to ask the chairman or one of the committee members from Mississippi or Michigan a question. On page 45 of the Senate committee report we have an Office of Transportation. I notice they have been reduced, but now they are starting what they call a user charge, SLUC, standard level user charges.

My farmers in my district are having problems in warehousing and trans-

portation. I was under the impression that this office was to be of service to rural communities, producers and farmers in general within the communities to service in a technical and research sense to help them out in transporting their products to and from given areas by rail or ship and so forth.

Now I see they have a user fee principle. Does the farmer or producer have to comply with this new procedure or could the gentleman explain this to the members?

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, we have had a terrific problem through the years because the General Services Administration serves as landlord for other Government agencies. I do not know when the law was passed or who caused it, but the General Services Administration just tells Federal agencies what the rent will be on the facilities that they occupy, and the agencies simply have to pay it. Treasury just withholds it before it comes to them.

We thought that was unfair because any vacant space GSA has, they just assign it to somebody and take the money from the agency without recompense.

In this bill, we set up a separate line item on these rental payments to GSA, and we put a limit on how much they can pay. Unless we do this, GSA can just tell the agency what they have to pay for office space and automatically take the funds. We have taken control of it so that we can watch it and see that they do not overbill agencies.

Mr. PURSELL. Well, Mr. Speaker, I just want to make sure that this does not preclude the opportunity to the farmer or rural community, such as in my area of Hillsdale or Jackson, Mich., and Lenawee County to utilize this service without having to pay some kind of user fee. It is not connected with getting service from this Office of Transportation. Is that clear in the gentleman's mind?

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Mr. WHITTEN. We have had to reinstate the transportation item from time to time, and I agree with the gentleman there. But this is not intended to restrict the Office of Transportation at all; it is supposed to save some money that GSA might have taken.

Mr. PURSELL. I thank the gentleman.

Mrs. SMITH of Nebraska. Mr. Speaker, I have no further requests for time, but I have been asked to engage the chairman in a brief colloquy.

We have language in the conference report pertaining to brucellosis indemnity payments. If the committee does not object to the proposed changes as submitted by USDA during the regular hearings, will the Department be allowed to proceed?

I yield to the gentleman from Mississippi for a response.

Mr. WHITTEN. Mr. Speaker, may I respond to my colleague, a very valuable member of the committee and the ranking member of the Agriculture Subcommittee. Let me review the brucellosis program a little bit. The Department set out to abolish the program. We have tried to see that that is not done so we would not lose all the progress that we have made in recent years.

The Department's proposal was to fix a flat rate of indemnity for cattle without regard to whether they were very valuable breed cattle or just run of the mill cattle.

We felt as the gentlewoman would know, that we should at least have a hearing on their proposal and see what they had in mind. We just said, "Keep the status quo until we have a hearing and see what you mean to do and then we will consider what advice we might give you."

That might not be controlling, but they usually cooperate with us.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DANNEMEYER).

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, before I consume that 1 minute, may I have a parliamentary inquiry?

The SPEAKER pro tempore. The parliamentary inquiry would be made as part of your 1 minute. All time is controlled.

Mr. DANNEMEYER. Then this is my request in the nature of a parliamentary inquiry.

If the funding level of this conference report is $31.7 billion-plus, and the budget resolution passed by the House earlier this year listed as a maximum amount for this area of spending something a little below $23 billion, my parliamentary inquiry is: If we have passed the budget resolution providing a level of spending for this category or function of the Federal budget, how do we have the ability now to consider a conference report that proposes to spend an amount substantially in excess of that figure? Where do we get that right?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

The SPEAKER pro tempore (Mr. PEASE). No point of order was made against the conference report when it was brought up. If one had been raised, the Chair would have ruled at that time. A timely point of order was not made and, therefore, there is no ruling.

Mr. DANNEMEYER. Does the Speaker mean that if a Member had raised this in the way of a point of order when it was first brought up——

The SPEAKER pro tempore. If there had been a point of order raised on a timely basis, the Chair would have ruled on the point of order.

Mr. DANNEMEYER. Ruled which way?

The SPEAKER pro tempore. The Chair cannot engage in speculation.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have many people who insist that this budget ceiling is imposed on each department agency, and program. That is not true. The Appropriations Committee has an allocation to the overall spending of some $487 billion. It is silly to believe the Budget Committee can control each department and agency through a target resolution they adopted in June without the benefit of hearings.

But the overall ceiling, we are well within it for the appropriations under our committee's overall 302 allocations. We do reserve in the committee the right to suballocate it as we see fit, and we did suballocate it.

When the President sent down the requests for the additional money, that was still within the overall ceiling. But the ceiling is on the Committee as a Whole and not department by department. So we had enough latitude to include these requests by the President. It may be over for the original allocation to this department, but we did not know that the President was going to request this.

But we are still within and under the ceiling imposed overall.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, is the gentleman from Mississippi suggesting that additional money was requested by the President?

Mr. WHITTEN. Yes; and I said so earlier.

Mr. DANNEMEYER. If the chairman would yield further, that is an interesting statement because what can the President spend except that we appropriate?

Mr. WHITTEN. We believe in helping the President when we can. After all, the President made three separate requests, adding some $8.7 billion to his own budget. If any of my colleagues cares to read the President's budget amendments, they can be found in House Documents 97-257, 97-262, and 97-266.

The SPEAKER pro tempore. The time of the gentleman from Mississippi (Mr. WHITTEN) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on the Agriculture appropriations bill for fiscal year 1983, and I urge my colleagues to support it. The conference report provides funds for a number of vital programs that sustain agriculture, conservation, rural development, research, nutrition, and many other important activities. This conference report represents a reasonable balance between consumer and producer needs, and the funds will help maintain the economic well-being of our rural areas. Although it was difficult to provide equitable and adequate support for all of these functions, I am pleased that we were able to do so within the 302 allocations.

I am also pleased that the conference has provided funding for the food stamp, child nutrition, and WIC programs on a full-year basis. However, I should note that the food stamp appropriation of $10.8 billion, which is what the administration officially requested last week, will almost certainly be insufficient and a supplemental appropriation will be required.

This summer, after passage of the Reconciliation Act, USDA informed the appropriations committees that it estimated a need of $10.9 billion for the food stamp program in fiscal year 1983. This was based on official OMB economic assumptions that unemployment for the fiscal year would average 8.7 percent. Since last summer—when the USDA prepared this estimate—unemployment has skyrocketed to 10.8 percent. In the last 3 months alone, food stamp participation has risen by 1 million persons in response to this rise in unemployment. It now seems clear that the $10.9 billion estimate was too low.

Last week, the administration submitted an official budget estimate for $10.8 billion—$100 million lower than before, despite the increase in unemployment. The administration's justification for this new estimate was that $10.8 billion is the CBO estimate.

Unfortunately, this seems to be another instance of less-than-honest budgeting by OMB. It is true that CBO did estimate food stamp needs at $10.8 billion—but that was last summer, before the recent steep increases in unemployment. The CBO estimate was based on a projection that unemployemt would average 9.0 percent in fiscal year 1983, with unemployment reaching a peak of 9.5 percent in the first fiscal quarter and declining thereafter; 2 months of the first fiscal quarter have now passed—and unemployment is far above 9.5 percent. For unemployment to average 9.5 percent for the quarter, it would have to drop to 7.3 percent in December.

CBO analysts have indicated that because of the high levels of unemployment, the $10.8 billion estimate is no longer correct. When CBO issues its next set of budget estimates, the food stamp estimate will be in the $11 to $12 billion range. It is unfortunate that the administration chose to use an outdated estimate.

To avoid this type of situation in the future, the committee report to this appropriations bill requires that upon enactment, the Secretary must submit an estimate of the funds needed to fully the food stamp program in fiscal year 1983, together with a detailed description of the economic assumptions on which the estimate is based. In addition, the Secretary must report immediately to the Congress upon determining at any time that the estimate must be revised because of changes in economic or other conditions. The Appropriations Committee takes this directive—which appears in the committee report—quite seriously. As a member of the committee, I expect the Department to provide us with a revision of the $10.8 billion estimate promptly.

In addition, the Department may not take any action to reduce benefits on the grounds that the $10.8 billion estimate is too low. Congress has appropriated $10.8 billion at this time because the administration submitted an official document stating that his was the full amount needed. The statement of managers indicates that the Appropriations Committees intend to provide additional funds for the food stamp program upon being notified that supplemental funds are needed to avoid benefit reductions. In past years, Congress has always provided needed supplemental funding for this program, and will certainly do so again. Any action by the administration to reduce benefits, rather than to allow the Congress ample time to provide supplemental funding, would be contrary to the intent of this act.

The $10.8 billion should be sufficient to carry the program through August, so the Congress will be able to provide the needed amount of supplemental funding in the supplemental appropriations legislation next year.

WIC

For the WIC program, the conference report provides $1.060 billion, the same level that was contained in the continuing resolution enacted at the beginning of October. The Department is required to make the $1.060 billion, plus any carryover funds from fiscal year 1982, available to States in a timely manner so that these funds may be fully utilized in fiscal year 1983 to serve the maximum number of participants. The Department has provided $265 million—one-quarter of the $1.060 billion—for the first quarter of the fiscal year. We expect the Department to issue additional $265 million allocations promptly at the beginning of each of the three remaining quarters of the fiscal year, as well as to make allocations of carryover funds promptly as those funds become available. Finally, we expect the Department to conduct reallocations of fiscal year 1983 funds during fiscal year 1983 to the degree necessary to assure that available funds are used during fiscal year 1983 to the maximum extent feasible.

I am pleased that in the advisory language in the statement of managers regarding the WIC food package, the conferees have urged that the nutritional integrity of the WIC food package be maintained.

Once again, Mr. Speaker, I urge my colleagues to support this conference report and these programs which are so important to our urban and rural communities.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA), a member of the committee.

Mr. AKAKA. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report, and I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I want to thank Chairman JAMIE WHITTEN for all his hard work on behalf of the American farmer. No one is better aware of the pressing needs of America's farmers than the gentleman from Mississippi nor has anyone in this House done more to help the ailing farms in our Nation than the chairman of our subcommittee. This bill is evidence of his concern and attention to the problems of agriculture.

This is a good bill, and deserves every Member's support. The funds in the Agriculture appropriations bill operate programs essential to our Nation's farmers and consumers. Without the programs contained in this bill, the current farm crisis will be far, far worse.

At a time when 12 million Americans are jobless, I am happy to see that the administration has agreed to support funding for vital domestic programs at a level sufficient for the full fiscal year. The nutrition programs in this bill are designed to assure a balanced and adequate diet for the elderly, for those on low incomes and for children who are considered to be a nutritional risk. These are the most vulnerable people in our society. Without the funding this bill contains, they will only be more susceptible to disease and illness.

The bill also provides essential levels of funding to combat the infestation and disease caused by insects and other pests. These pests destroy our

farmer's crops and sicken and kill his animals at an alarming rate.

I am also happy to have the committee's support for funding of the Agricultural Cooperative Service in fiscal year 1983. For the most part, the amounts provided will continue programs of the Agricultural Cooperative Service at the previous year's level. To deny farmers and farmer cooperatives research, technical assistance and cooperative education, at a time when farm income is at its lowest point since the Great Depression, would only cause further unnecessary hardship for our farmers. The Department of Agriculture has testified that requests for technical assistance from the Agriculture Cooperative Service doubled between fiscal year 1980 and fiscal year 1981. This bill provides the assistance to meet this need.

Mr. Speaker, as a Member of the Agriculture Appropriations Subcommittee, and as a conferee on this bill, I am surprised at the response that has been generated by the conference agreement on the Senate amendment No. 69. In response to concerns raised by the Senate, the conferees included language in the statement of the managers to the effect that decisions regarding the composition of the WIC food package should be made on comprehensive scientific evidence. This would prevent the USDA from eliminating any food item based on a single component of that food.

Mr. Speaker, the conferees have expressed strong support for the WIC program. What has come to our attention is the attempt of the Food and Nutrition Service to limit foods in the WIC food package based upon a component of that food, when the best available scientific evidence indicates that the components they are attempting to eliminate from the package are safe for human consumption. The food components that the Food and Nutrition Service have targeted are chocolate for flavoring milk and sucrose and other sugars in breakfast cereals. This is being attempted despite the fact that sucrose and other sugars have been recognized as foods safe for human consumption for many years. Only last week the Food and Drug Administration reaffirmed the GRAS (generally recognized as safe) status of sucrose and other sugars.

One of the most successful of USDA's food distribution programs has been the supplemental feeding program for women, infants, and children introduced and adopted through the efforts of Hubert Humphrey in 1972. At that time, studies showed that numerous women, pregnant women and small children suffered from anemia because the needs of their bodies for iron were particularly great at that stage of their lives and growth. In the ensuing years, WIC has been successful in providing iron in their diets through the distribution of vouchers for the purchase of iron fortified breakfast cereals.

Some months ago, USDA came out with a regulation which has not been finalized, that would eliminate some of the cereals which had been available under WIC by limiting the per serving content of sucrose and other sugars.

In view of this and the knowledge possessed by the appropriate congressional committees and our conferees, we are not aware of any scientifically valid reasons for the Department's action. With FDA's action, it is difficult to believe that any such reason could be found. But even if USDA has some rationale, we would like them to consider the other characteristics of the WIC foods, particularly the cereals, which are critical to continued successes for the WIC program.

Given the solid improvements in the diets and health of the WIC participants and the lack of an adequate scientific basis for their action in limiting a food component that the FDA has recently reaffirmed as GRAS, we are advising the Department to require a specific scientific rationale for all changes in the food packages.

In closing, let me again urge my colleagues to lend their full support to this conference report. America's agriculture deserves no less.

● Mr. MILLER of California. Mr. Speaker, it is the end of the Congress, so enter the special interest lobbyists who care more about selling their product than about the health and growth of America's mothers and infants.

WIC is a health and nutrition program for low-income pregnant women, infants, and children who have been medically certified to be at nutritional risk. The March of Dimes documented that those risks include birth defects, deafness, blindness, mental retardation and in to many cases, death. But the WIC program has been proven to cut infant mortality for its participants by one-third, and to reduce the incidence of low birth weight, the eighth leading cause of death in the United States.

Not only have we repeated evidence of the success of this program for its participants, but studies by the Harvard School of Public Health show that each $1 spent on the prenatal component of WIC results in $3 in short-term hospitalization costs. This 3:1 benefit ratio does not even take into account the long-term savings in reduced social services, health care, special education, and future dependency on disability payments.

Now, disregarding these successes, and seeing only a vehicle for their own product, special interest lobbyists are seeking to sue the WIC program to merchandise highly sugared cereals and chocolate milk. These special interest lobbyists offered no evidence that their products would be beneficial to the high-risk mothers and infants who are the carefully selected target group for this program. Nor did these special interest lobbyists provide us information about the increased cost of the WIC food package as a result of including their high-sugar products. As the cost of the WIC food package increases, the numbers of women and children who can be served is reduced.

Today, we will be asked to approve the 1983 Agriculture appropriations conference report. Any interpretation that would indicate that the Department of Agriculture has to change regulations governing the WIC food package on the basis of the advisory language included in the statement of managers is inconsistent with the statutory requirement of the Child Nutrition Act as amended in 1978. This law requires the Secretary of Agriculture to set "appropriate levels" for sugar, fat and salt content of foods included in the WIC prescription food package.

The advisory language in the statement of managers is attempting to turn one of the Federal Government's most effective programs, the supplemental feeding program for women, infants, and children (WIC) into a marketing device for special interest.

If USDA misconstrues this advisory language, this city will have a lot of happy, well-heeled lobbyists, but this country will surely have fewer healthy, well-fed mothers and infants. We cannot let special interests undermine the integrity of a successful program for vulnerable citizens.●

● Mr. DASCHLE. Mr. Speaker, I would like to focus my remarks regarding the conference report on H.R. 7072, the Agriculture appropriations for fiscal year 1983 on two items—the limited resource loan program and FmHA deferral policy.

This is the first time that the limited resource loan program has been specifically mentioned in an appropriations bill. In the past this program, which is an earmark of funds within the FmHA operating and ownership loan programs for low income, limited resource family farmers, has been authorized in the FmHA loan reauthorization legislation.

This year the House passed an FmHA loan reauthorization bill (H.R. 5831) which contained a 25-percent earmark of FmHA operating and ownership loan money for the limited resource loan program. The Senate Agriculture Committee, in its reauthorization bill, set aside 15 percent of operating and ownership money for this same program.

However, the FmHA reauthorization bill has not, and appears it will not, get to the Senate floor this session of Congress. Because of that, and because of the clear sentiment in both Houses in support of the limited re-

source loan program, an amendment was attached to the fiscal year 1983 Agriculture appropriations bill on the Senate floor—the amendment earmarked 20 percent of the operating and ownership loan money for low income, limited resource farmers. The purpose of the amendment was to insure, in the temporary absence of an authorization, that the administration continue to operate this program.

Senate report language on the Agriculture appropriations bill reads:

The Committee remains concerned about the continued difficulty young persons are experiencing in getting started in farming. The Committee notes that current authority provides that not less than 20 percent of the funds provided for farm real estate and ownership loans shall be used for limited resource borrowers. This authority should not be interpreted as a cap but as a minimum level for limited resource loans. FmHA should place increased emphasis on assisting new entrants to farming. To that end, the Committee will expect FmHA to fully utilize the limited resource loan program to assist young persons getting started in farming. The Committee will expect to be kept informed on actions taken to comply with this directive. The Committee has added language which will continue the authority for limited resource loans in fiscal year 1983. . . . . As in the case of real estate loans, the Committee will expect FmHA to fully utilize the limited resource loan program to assist young persons getting started in farming.

The language in the conference report before us today, however, makes the use of the 20 percent of funds in the FmHA real estate and operating programs for low-income, limited resource farmers discretionary. The reason for this is that the conferees felt that an earmark of funds for this program would constitute authorizing language in an appropriations bill—while I understand and appreciate this jurisdictional problem, I hope that the administration will, in a recognition of congressional intent, continue the limited resource loan program. I am confident, furthermore, that early in the 98th Congress we will pass FmHA loan program reauthorization legislation which will contain a specific earmark of funds for this program.

On the matter of FmHA deferral policy, the conferees adopted language which refers to the current law regarding the Secretary's deferral authority, and goes on to say, "The conferees will expect the Secretary to make maximum use of his dicretion under all authorities available to him to avoid loan collection actions that would force out of business these family farmers." The Senate adopted language in the Agriculture appropriations bill which was identical to language in a bill introduced by myself and Congressman DORGAN. Our bill subsequently passed the House as part of H.R. 5831. While I welcome the language in this conference report urging the Secretary to more fully utilize his deferral authority, I intend to work next session to get signed into law the language contained in H.R. 5831—language which says that under certain conditions family size farmers are entitled to deferrals. The language says that furthermore, FmHA must notify borrowers of the existence of deferrals and other servicing remedies and of the limited resource loan program.

It is evident that FmHA does not, as a matter of course, inform loan applicants and borrowers of the existence of these programs. Farmers must know what their options are under the law and regulations, and must be able to make application for those options.

I am disappointed that the Senate leadership did not see fit to bring the FmHA reauthorization bill to the Senate floor this year, as that would have been a more appropriate vehicle to deal with the issue of deferrals and other credit issues.

I hope that in the next session of Congress we will pass and have signed into law a reauthorization bill which can more clearly deal with farm problems.●

● Mr. BEDELL. Mr. Speaker, I rise in support of the conference report to accompany H.R. 7072, the Agriculture appropriations bill for fiscal year 1983. However, I wish to express my strong concern about the level of funding provided in the bill for the Agricultural Cooperative Service (ACS).

I believe that it is important that Members understand how the House and Senate arrived at the figure provided in the bill for ACS. I think that this explanation will make clear just how difficult it is to reduce the size of an entrenched Federal bureaucracy which is closely entwined with the interest groups which it serves.

As many Members know, I have a practice of dropping in on Federal agencies without warning to find out how our bureauracy operates and how Federal tax dollars are spent. Usually on these visits I roam the halls of a department or agency and enter various offices at random. I ask the Government personnel in those offices what their jobs are, how they occupy their time, and so on.

Late in 1981 I paid just such a visit to USDA's Agricultural Cooperative Service. Over the course of about 1 week, I spent a total of nearly 2½ days questioning ACS officials about the role of their agency, its activities, its funding level, the utilization of its staff and other resources, and so on.

I came away from my personal review of this agency with the firm belief that this unit was overfunded and overstaffed.

The Agricultural Cooperative Service has served a very useful role in helping to organize new farmer cooperatives and providing assistance to young, struggling cooperatives. And I have no doubt that its services will continue to be needed in helping new co-ops to get on their feet in the future.

However, I do not believe that the services of ACS will be needed at the same level that they have in the past. Farmers across the United States generally are served by strong cooperatives that provide essential assistance in marketing producers' crops and supplying them with needed inputs for their farming operations. In addition, organizations such as the Farm Credit System's Banks for Cooperatives and the National Council of Farmer Cooperatives have developed to where they can provide important technical, financial, and marketing assistance to the cooperatives, as well as serve important advocacy roles for the co-ops in Washington and elsewhere.

Consequently, after my in-depth investigation of the activities of ACS, I was pleased to note that the administration had proposed in its 1983 budget recommendation to the Congress that funding for the agency be reduced by about 25 percent from $4.64 million in fiscal year 1982 to $3.68 million in the current fiscal year. I made known my support for this reduction and proceeded to secure its adoption by this body.

However, I had scarcely completed my inspection of the ACS operation before lobbyists for those groups served by ACS began their phone calls and personal visits to my office in an attempt to head off my pursuit of this budget cut. All these lobbyists were well aware of my just completed tour of ACS and my interviews with agency officials. After making my case for the budget cuts to these interests served by ACS, few were in a position to disagree with my contention that indeed the agency could readily absorb a reduction in staff and resources.

I also made my case in a letter to the members of the Appropriations Subcommittee on Agriculture, Rural Development, and related agencies, and I am pleased to say that the subcommittee agreed to reduce funding for ACS by more than $600,000 to just $3,999,000. This reduced funding level was also adopted by the full Appropriations Committee and the House.

The Senate, on the other hand, approved $5 million in funding for ACS in fiscal year 1983. And in conference, the conferees roughly split the difference in the House and Senate figures so that the final amount provided was $4.63 million—exactly the same amount as ASC received last year.

So much for cutting Federal spending and reducing the size of the bureaucracy.

As I said at the outset, I believe this incident serves as a telling example of the difficulty we as policymakers face when we attempt to cut the budget.

There was not much money involved in this particular case—only thousands of dollars in a $23 billion bill. But we face almost certain budget deficits of $200 billion annually for the next few years, and our total annual Federal budget is well over $700 billion. I hope that this one small example provides an indication, and a warning, of the difficulty we encounter as we take on a well entrenched bureaucracy with active and influential friends in the lobbying organizations which it serves, as we attempt to cut the budget.

I realize that for many Members I have only pointed out what is painfully obvious: Special interests with close ties to the bureaucracy tend to perpetuate the present level of Federal spending for their own cause, despite the nearly universal recognition that we need to cut the budget. But I simply offer this case as another example of the built-in momentum for Government spending, and urge continued diligence in our efforts to reverse this course and get a handle on these record deficits.●

● Mr. WEISS. Mr. Speaker, I would like to commend the gentleman from Mississippi and his colleagues on the subcommittee for agreeing to appropriate full funding for the special supplemental food program for women, infants and children in the fiscal year 1983 agricultural appropriations bill. Certainly the program's track record demonstrates that WIC deserves no less.

The WIC program supplements the diets of 2.2 million low-income pregnant and nursing women, infants, and children who are medically certified to be at nutritional risk. The program successfully integrates the distribution of supplemental foods with the provision of health care and nutrition education for program participants. Study after study, by USDA, Centers for Disease Control, universities, and public-health departments, has found that WIC decreases infant mortality rates, the incidence of low-birth-weight babies, and the incidence of anemia. As a further testament to the programs effectveness, a Harvard study found that for every WIC dollar spent, up to $3 is saved in hospitalization costs for low-birth-weight babies.

A major reason for WIC's success has been its adherence to nutritional standards and quality. The Education and Labor Committee, on which I serve, affirmed these standards by specifying in the 1978 WIC reauthorization that the food package contain supplemental foods that provide nutrients found to be lacking in the diets of the WIC participants. In addition, Public Law 95-627 clearly requires the Secretary "to assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

In accordance with the statute and under the guidance of experts in the medical, dental, and nutrition communities, USDA has issued regulations which limit the amount of added sugar permitted in the WIC food package. This regulation, scheduled to be implemented at the end of this year, fulfills the mandate and intent of the WIC statute and contributes to the nutritional health of those who are served by the program.

I am concerned that the language in the appropriation bill's statement of managers conflicts with the prescriptions for the food package in the WIC statute. It appears to allow the inclusion of foods in the WIC package that contain inappropriately high levels of sugar, such as sugared cereals. Although the language in the statement of managers is only advisory, it may confuse what should be a clear directive to the administrators of the program.

For many years, the Congress has consistently stood behind the integrity of the WIC program. We cannot and should not tolerate a retreat from this commitment.●

Mrs. SMITH of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore The question is on the conference report.

The question was taken; and the Speaker pro tempore. announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 324, nays 73, not voting 36, as follows:

[Roll No. 456]

YEAS—324

Addabbo	Bonior	Coelho
Akaka	Bonker	Coleman
Albosta	Bouquard	Collins (IL)
Alexander	Bowen	Conte
Andrews	Breaux	Conyers
Annunzio	Brinkley	Corcoran
Applegate	Brodhead	Coughlin
Aspin	Brooks	Courter
AuCoin	Broomfield	Coyne, William
Bafalis	Brown (CA)	Craig
Bailey (PA)	Brown (OH)	Crockett
Barnard	Burgener	D'Amours
Barnes	Burton, Phillip	Daniel, Dan
Bedell	Byron	Daniel, R. W.
Bellenson	Campbell	Daschle
Bereuter	Carney	Daub
Bevill	Chappell	Davis
Biaggi	Chappie	de la Garza
Bliley	Chisholm	Deckard
Boggs	Clausen	Dellums
Boland	Clay	DeNardis
Boner	Coats	Derwinski
Dickinson	Huckaby	Pritchard
Dicks	Hutto	Pursell
Dingell	Hyde	Quillen
Dixon	Jeffords	Rahall
Donnelly	Jenkins	Rangel
Dougherty	Jones (NC)	Ratchford
Dowdy	Jones (TN)	Regula
Downey	Kastenmeier	Reuss
Duncan	Kazen	Rinaldo
Dunn	Kennelly	Roberts (KS)
Dwyer	Kildee	Robinson
Dymally	Kindness	Rodino
Dyson	Kogovsek	Roe
Early	Kramer	Rogers
Eckart	LaFalce	Rose
Edgar	Lantos	Rostenkowski
Edwards (AL)	Latta	Roybal
Edwards (CA)	Leach	Sabo
Edwards (OK)	Leath	Santini
Emerson	Leland	Sawyer
Emery	Lent	Scheuer
English	Levitas	Schneider
Erdahl	Lewis	Schumer
Erlenborn	Loeffler	Seiberling
Ertel	Long (LA)	Shamansky
Evans (DE)	Long (MD)	Shannon
Evans (GA)	Lott	Sharp
Evans (IA)	Lowery (CA)	Shelby
Evans (IN)	Lowry (WA)	Siljander
Fary	Lujan	Simon
Fazio	Luken	Skeen
Fenwick	Lundine	Skelton
Ferraro	Madigan	Smith (IA)
Fiedler	Markey	Smith (NE)
Findley	Marlenee	Smith (NJ)
Fish	Martin (IL)	Smith (PA)
Fithian	Martin (NY)	Snowe
Flippo	Martinez	Snyder
Florio	Matsui	Solarz
Foglietta	Mattox	Solomon
Foley	Mavroules	Spence
Ford (TN)	Mazzoli	St Germain
Forsythe	McClory	Stangeland
Fountain	McCurdy	Stanton
Fowler	McDade	Staton
Frost	McHugh	Stenholm
Fuqua	McKinney	Stokes
Garcia	Mica	Stratton
Gaydos	Michel	Studds
Gejdenson	Mikulski	Swift
Gephardt	Miller (CA)	Synar
Gibbons	Mineta	Tauzin
Gilman	Mitchell (NY)	Taylor
Ginn	Moakley	Thomas
Glickman	Moffett	Traxler
Gonzalez	Molinari	Trible
Goodling	Montgomery	Vander Jagt
Gore	Moore	Vento
Gray	Morrison	Volkmer
Green	Murphy	Walgren
Guarini	Murtha	Wampler
Gunderson	Myers	Washington
Hall (IN)	Napier	Watkins
Hall (OH)	Natcher	Waxman
Hall, Ralph	Neal	Weber (MN)
Hall, Sam	Nelligan	Weber (OH)
Hamilton	Nelson	Weiss
Hammerschmidt	Nichols	White
Hance	Nowak	Whitehurst
Hansen (ID)	O'Brien	Whitley
Harkin	Oakar	Whittaker
Hartnett	Oberstar	Whitten
Hatcher	Obey	Williams (MT)
Hawkins	Oxley	Williams (OH)
Heckler	Panetta	Wilson
Hefner	Parris	Winn
Heftel	Pashayan	Wirth
Hendon	Patman	Wolf
Hertel	Patterson	Wolpe
Hightower	Pease	Wright
Hillis	Pepper	Wyden
Hollenbeck	Perkins	Wylie
Hopkins	Peyser	Yatron
Howard	Pickle	Young (AK)
Hoyer	Porter	Young (MO)
Hubbard	Price	Zablocki

NAYS—73

Anderson	Bennett	Conable
Archer	Brown (CO)	Coyne, James
Ashbrook	Broyhill	Crane, Daniel
Atkinson	Carman	Crane, Philip
Badham	Cheney	Dannemeyer
Bailey (MO)	Clinger	Dorgan
Benedict	Collins (TX)	Dornan

Dreier	Kemp	Roemer
Fields	Lagomarsino	Roth
Frank	LeBoutillier	Roukema
Frenzel	Livingston	Rudd
Gingrich	Lungren	Russo
Gradison	Martin (NC)	Schroeder
Gramm	McCollum	Sensenbrenner
Gregg	McDonald	Shaw
Grisham	McEwen	Shumway
Hansen (UT)	McGrath	Smith (AL)
Hiler	Miller (OH)	Smith (OR)
Horton	Minish	Stump
Hughes	Moorhead	Walker
Hunter	Mottl	Weaver
Jacobs	Ottinger	Wortley
Jeffries	Paul	Young (FL)
Johnston	Petri	
Jones (OK)	Ritter	

NOT VOTING—36

Anthony	Hagedorn	Rhodes
Beard	Holland	Roberts (SD)
Bethune	Holt	Rosenthal
Bingham	Ireland	Rousselot
Blanchard	Lee	Savage
Bolling	Lehman	Schulze
Burton, John	Marks	Shuster
Butler	Marriott	Stark
Derrick	McCloskey	Tauke
Fascell	Mitchell (MD)	Udall
Ford (MI)	Mollohan	Yates
Goldwater	Railsback	Zeferetti

□ 1200

Mr. ATKINSON changed his vote from "yea" to "nay."

Mr. DECKARD changed his vote from "present" to "yea."

Mr. MILLER of California changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

● Mr. MARRIOTT. Mr. Speaker, I rise for an item of personal explanation. Earlier today, I had a commitment to meet with the Secretary of Energy, Mr. Don Hodel, to discuss the implementation of the recently released EPA regulations governing the cleanup and long-term control of uranium ore tailings. This meeting prevented me from being present on the floor of the House during the vote on the conference report to the Agriculture appropriations bill for fiscal year 1983. With the Chair's permission, I would like the record to state that had I been present for the vote on the conference report for H.R. 7072, the Agriculture appropriations bill for fiscal year 1983, I would have voted "aye."●

□ 1215

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 14: Page 11, line 18, strike out "$321,506,000" and insert "$321,439,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$323,221,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 19: Page 17, line 15, after "basis" insert ": *Provided further,* That not less than $66,000 of the funds contained in this appropriation shall be available for preparing and disseminating forecasts of farm sector receipts, production expenses, and net income indicators for crop year 1983 on a quarterly basis commencing prior to December 31, 1982".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 34: Page 27, line 22, after "$1,109,722,000" insert ", and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 37: Page 28, line 10, after "disasters" insert ": *Provided,* That not less than 20 per centum of the farm ownership loans nor less than 20 per centum of the operating loans insured, or made to be sold and insured, under this provision shall be for low-income limited resource borrowers; economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, $600,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided,* That 20 per centum of the farm ownership loans and 20 per centum of the operating loans insured, or made to be sold and insured, under this provision may be for low-income limited resource borrowers; guaranteed economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, $600,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 32, line 5, after "principal" insert ": *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1983, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 55: Page 43, line 3, after "allocated" insert ": *Provided further,* That if the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 56: Page 43, line 3, after "allocated" insert ": *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within 60 days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within 90 days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 60: Page 43, line 25, after "$32,600,000" insert ": *Provided*, That funds provided herein shall remain available until September 30, 1984".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 67: Page 52, line 17, after "Facilities;" insert "Agricultural Research Service, Buildings and Facilities;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 70: Page 57, after line 2, insert:

AGRICULTURAL COMMODITY PRODUCTION ON HIGHLY ERODIBLE LAND

SEC. 626. (a) For purposes of this section—

(1) the term "agricultural commodity" means an agricultural commodity normally produced by annual tilling of the soil, including one-trip planters; and

(2) the term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the Land Capability Classification System of the Soil Conservation Service as in effect on the date of enactment of this Act.

(b) Except as provided in subsection (c) and notwithstanding any other provision of law, no funds appropriated under this Act may be expended to provide to a person who produces an agricultural commodity on highly erodible land—

(1) any type of price support assistance on such commodity made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(2) a loan for the construction or purchase of a facility for the storage of such commodity made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(3) crop insurance for such commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(4) a disaster payment for such commodity made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(5) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration, if the Secretary of Agriculture determines that such loan will be used for a purpose which will contribute to excessive erosion of highly erodible land.

(c) Subsection (b) shall not apply to—

(1) any land which was cultivated by a person to produce any of the 1977 through 1982 crops of agricultural commodities;

(2) any agricultural commodity planted by a person before the date of enactment of this Act;

(3) any agricultural commodity planted by a person during a crop year beginning before such date;

(4) any loan described in subsection (b) made before such date; or

(5) any agricultural commodity produced using a conservation system which has been approved by a soil conservation district.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 625. Notwithstanding any other provision of this Act, appropriations under this Act to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, are $10,466,057,000, and, as authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not more than $500,000,000 in fiscal year 1983.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I be permitted to include tables, charts, and other extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL RULES OF CIVIL PROCEDURE AMENDMENTS ACT OF 1982

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 7154) to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. McCLORY. Mr. Speaker, reserving the right to object, and I shall not object, I make this reservation in order that the gentleman from California (Mr. EDWARDS) may explain what he and I are doing here today.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, in July Mr. McCLORY and I brought before the House a bill to delay the effective date of proposed changes in rule 4 of the Federal Rules of Civil Procedure, dealing with service of process. The Congress enacted that legislation and delayed the effective date so that we could cure certain problems in the proposed amendments to rule 4.

Since that time, Mr. McCLORY and I introduced a bill, H.R. 7154, that cures those problems. It was drafted in consultation with representatives of the Department of Justice, the Judicial Conference of the United States, and others.

The Department of Justice and the Judicial Conference have endorsed the bill and have urged its prompt enactment. Indeed, the Department of Justice has indicated that the changes occasioned by the bill will facilitate its collection of debts owed to the Government.

I have a letter from the Office of Legislative Affairs of the Department of Justice supporting the bill that I will submit for the RECORD. Also, I am submitting for the RECORD a section-by-section analysis of the bill.

H.R. 7154 makes much needed changes in rule 4 of the Federal Rules of Civil Procedure and is supported by all interested parties. I urge my colleagues to support it.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., December 10, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is to proffer the views of the Department of Justice on H.R. 7154, the proposed Federal Rules of Civil Procedure Amendments Act of 1982. While the agenda is extremely tight and we appreciate that fact, we do reiterate that this Department strongly endorses the enactment of H.R. 7154. We would greatly appreciate your watching for any possible way to enact this legislation expeditiously.

H.R. 7154 would amend Rule 4 of the Federal Rules of Civil Procedure to relieve effectively the United States Marshals Service of the duty of routinely serving summonses and complaints for private parties in civil actions and would thus achieve a goal this Department has long sought. Experience has shown that the Marshals Service's increasing workload and limited budget require such major relief from the burdens imposed by its role as process-server in all civil actions.

The bill would also amend Rule 4 to permit certain classes of defendants to be served by first class mail with a notice and acknowledgment of receipt form enclosed. We have previously expressed a preference for the service-by-mail provisions of the proposed amendments to Rule 4 which the Su-

preme Court transmitted to Congress on April 28, 1982.

The amendments proposed by the Supreme Court would permit service by registered or certified mail, return receipt requested. We had regarded the Supreme Court proposal as the more efficient because it would not require an affirmative act of signing and mailing on the part of a defendant. Moreover, the Supreme Court proposal would permit the entry of a default judgment if the record contained a returned receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant and subsequent service and notice by first class mail. However, critics of that system of mail service have argued that certified mail is not an effective method of providing actual notice to defendants of claims against them because signatures may be illegible or may not match the name of the defendant, or because it may be difficult to determine whether mail has been "unclaimed" or "refused," the latter providing the sole basis for a default judgment.

As you know, in light of these criticisms the Congress enacted Public Law 97-227 (H.R. 6663) postponing the effective date of the proposed amendments to Rule 4 until October 1, 1983, so as to facilitate further review of the problem. This Department opposed the delay in the effective date, primarily because the Supreme Court's proposed amendments also contained urgently needed provisions designed to relieve the United States Marshals of the burden of serving summonses and complaints in private civil actions. In our view, these necessary relief provisions are readily separable from the issues of service by certified mail and the propriety of default judgment after service by certified mail which the Congress felt warranted additional review.

During the floor consideration of H.R. 6663 Congressman Edwards and other proponents of the delayed effective date pledged to expedite the review of the proposed amendments to Rule 4, given the need to provide prompt relief for the Marshals Service in the service of process area. In this spirit Judiciary Committee staff consulted with representatives of this Department, the Judicial Conference, and others who had voiced concern about the proposed amendments.

H.R. 7154 is the product of those consultations and accommodated the concerns of the Department in a very workable and acceptable manner.

Accordingly, we are satisfied that the provisions of H.R. 7154 merit the support of all three branches of the Federal Government and everyone else who has a stake in the fair and efficient service of process in civil actions. We urge prompt consideration of H.R. 7154 by the Committee.[1]

[1] In addition to amending Rule 4, we have previously recommended: (a) amendments to 28 U.S.C. § 569(b) redefining the Marshals traditional role by eliminating the statutory requirement that they serve subpoenas, as well as summonses and complaints, and; (b) amendments to 28 U.S.C. § 1921 changing the manner and level in which marshal fees are charged for serving private civil process. These legislative changes are embodied in Section 10 of S. 2567 and the Department's proposed fiscal year 1983 Appropriations Authorization bill. If, in the Committee's judgment, efforts to incorporate these suggested amendments in H.R. 7154 would in any way impede consideration of the bill during the few remaining legislative days in the 97th Congress, we would urge that they be separately considered early in the 98th Congress.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

H.R. 7154—FEDERAL RULES OF CIVIL PROCEDURE AMENDMENTS ACT OF 1982

BACKGROUND

The Federal Rules of Civil Procedure set forth the procedures to be followed in civil actions and proceedings in United States district courts. These rules are usually amended by a process established by 28 U.S.C. 2072, often referred to as the "Rules Enabling Act". The Rules Enabling Act provides that the Supreme Court can propose new rules of "practice and procedure" and amendments to existing rules by transmitting them to Congress after the start of a regular session but not later than May 1. The rules and amendments so proposed take effect 90 days after transmittal unless legislation to the contrary is enacted.[1]

On April 28, 1982, the Supreme Court transmitted to Congress several proposed amendments to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure (which govern criminal cases and proceedings in Federal courts), and the Rules and Forms Governing Proceedings in the United States District Courts under sections 2254 and 2255 of Title 28, United States Code (which govern habeas corpus proceedings). These admendments were to have taken effect on August 1, 1982.

The amendments to Rule 4 of the Federal Rules of Civil Procedure were intended primarily to relieve United States marshals of the burden of serving summonses and complaints in private civil actions. Appendix II, at 7 (Report of the Committee on Rules of Practice and Procedure), 16 (Advisory Committee Note). The Committee received numerous complaints that the changes not only failed to achieve that goal, but that in the process the changes saddled litigators with flawed mail service, deprived litigants of the use of effective local procedures for service, and created a time limit for service replete with ambiguities that could only be resolved by costly litigation. *See* House Report No. 97-662, at 2-4 (1982).

In order to consider these criticisms, Congress enacted Public Law 97-227, postponing the effective date of the proposed amendments to Rule 4 until October 1, 1983.[2] Accordingly, in order to help shape the policy behind, and the form of, the proposed amendments, Congress must enact legislation before October 1, 1983.[3]

With that deadline and purpose in mind, consultations were held with representatives of the Judicial Conference, the Department of Justice, and others who had voiced concern about the proposed amendments. H.R. 7154 is the product of those consultations. The bill seeks to effectuate the policy of relieving the Marshals Service of the duty of routinely serving summonses and complaints. It provides a system of service by mail modeled upon a system found to be effective in California, and finally, it makes appropriate stylistic, grammatical, and other changes in Rule 4.

NEED FOR THE LEGISLATION

1. Current Rule 4

Rule 4 of the Federal Rules of Civil Procedure relates to the issuance and service of process. Subsection (c) authorizes service of process by personnel of the Marshals Service, by a person specially appointed by the Court, or "by a person authorized to serve process in an action brought in the courts of general jurisdiction of the state in which the district court is held or in which service is made." Subsection (d) describes how a summons and complaint must be served and designates those persons who must be served in cases involving specified categories of defendants. Mail service is not directly authorized. Subsection (d)(7), however, authorizes service under the law of the state in which the district court sits upon defendants described in subsections (d)(1) (certain individuals) and (d)(3) (organizations). Thus, if state law authorizes service by mail of a summons and complaint upon an individual or organization described in subsections (d) (1) or (3), then subsection (d)(7) authorizes service by mail for United States district courts in that state.[4]

2. Reducing the role of marshals

The Supreme Court's proposed modifications of Rule 4 were designed to alleviate the burden on the Marshals Service of serving summonses and complaints in private civil actions. Appendix II (Report of the Committee on Rules of Practice and Procedure) (Advisory Committee Note). While the Committee received no complaints about the goal of reducing the role of the Marshals Service, the Court's proposals simply failed to achieve that goal. *See* House Report No. 97-662, at 2-3 (1982).

The Court's proposed Rule 4(c)(2)(B) required the Marshals Service to serve summonses and complaints "pursuant to any statutory provision expressly providing for service by a United States Marshal or his

[1] The drafting of the rules and amendments is actually done by a committee of the Judicial Conference of the United States. In the case of the Federal Rules of Civil Procedure, the initial draft is prepared by the Advisory Committee on Civil Rules. The Advisory Committee's draft is then reviewed by the Committee on Rules of Practice and Procedure, which must give its approval to the draft. Any draft approved by that committee is forwarded to the Judicial Conference. If the Judicial Conference approves the draft, it forwards the draft to the Supreme Court. The Judicial Conference's role in the rule-making process is defined by 28 U.S.C. 331.

For background information about how the Judicial Conference committees operate, see Wright, "Procedural Reform: Its Limitation and Its Future," 1 Ga. L. Rev. 563, 565-66 (1967) (civil rules); statement of United States District Judge Roszel C. Thomsen, Hearings on Proposed Amendments to the Federal Rules of Criminal Procedure Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 93d Cong., 2d Sess. at 25 (1974) (criminal rules); statement of United States Circuit Judge J. Edward Lumbard, id. at 203 (criminal rules); J. Weinstein, Reform of Federal Court Rulemaking Procedure (1977); Weinstein, "Reform of Federal Rulemaking Procedures," 76 Colum. L. Rev. 905 (1976).

[2] All of the other amendments, including all of the proposed amendments to the Federal Rules of Criminal Procedure and the Rules and Forms Governing Proceedings in the United States District Courts under sections 2254 and 2255 of Title 28, United States Code, took effect on August 1, 1982, as scheduled.

[3] The President has urged Congress to act promptly. *See* President's Statement on Signing H.R. 6663 into Law, 18 Weekly Comp. of Pres. Doc. 982 (August 2, 1982).

[4] Where service of a summons is to be made upon a party who is neither an inhabitant of, nor found within, the state where the district court sits, subsection (e) authorizes service under a state statute or rule of court that provides for service upon such a party. This would authorize mail service if the state statute or rule of court provided for service by mail.

deputy."[5] One such statutory provision is 28 U.S.C. 569(b), which compels marshals to "execute *all* lawful writs, process and orders issued under authority of the United States, *including those of the courts* * * *." (emphasis added). Thus, any party could have invoked 28 U.S.C. 569(b) to utilize a marshal for service of a summons and complaint, thereby thwarting the intent of the new subsection to limit the use of marshals. The Justice Department acknowledges that the proposed subsection did not accomplish its objectives.[6]

Had 28 U.S.C. 569(b) been inconsistent with proposed Rule 4(c)(2)(B), the latter would have nullified the former under 28 U.S.C. 2072, which provides that "All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." Since proposed Rule 4(c)(2)(B) specifically referred to statutes such as 28 U.S.C. 569(b), however, the new subsection did not conflict with 28 U.S.C. 569(b) and did not, therefore, supersede it.

H.R. 7154 cures this problem and achieves the desired reduction in the role of the Marshals Service by authorizing marshals to serve summonses and complaints "on behalf of the United States". By so doing, H.R. 7154 eliminates the loophole in the Court's proposed language and still provides for service by marshals on behalf of the Government.[7]

3. Mail service

The Supreme Court's proposed subsection (d) (7) and (8) authorized, as an alternative to personal service, mail service of summonses and complaints on individuals and organizations described in subsection (d) (1) and (3), but only through registered or certified mail, restricted delivery. Critics of that system of mail service argued that registered and certified mail were not necessarily effective methods of providing actual notice to defendants of claims against them. This was so, they argued, because signatures may be illegible or may not match the name of the defendant, or because it may be difficult to determine whether mail has been "unclaimed" or "refused", the latter apparently providing the sole basis for a default judgment.[8]

H.R. 7154 provides for a system of service by mail similar to the system now used in California. See Cal. Civ. Pro. § 415.30 (West 1973). Service would be by ordinary mail with a notice and acknowledgment of receipt form enclosed. If the defendant returns the acknowledgment form to the sender within 20 days of mailing, the sender files the return and service is complete. If the acknowledgment is not returned within 20 days of mailing, then service must be effected through some other means provided for in the Rules.

This system of mail service avoids the notice problems created by the registered and certified mail procedures proposed by the Supreme Court. If the proper person receives the notice and returns the acknowledgment, service is complete. If the proper person does not receive the mailed form, or if the proper person receives the notice but fails to return the acknowledgment form, another method of service authorized by law is required. In either instance, however, the defendant will receive actual notice of the claim. In order to encourage defendants to return the acknowledgment form, the court can order a defendant who does not return it to pay the costs of service unless the defendant can show good cause for the failure to return it.

4. The local option

The Court's proposed amendments to Rule 4 deleted the provision in current subsection (d)(7) that authorizes service of a summons and complaint upon individuals and organizations "in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state." The Committee received a variety of complaints about the deletion of this provision. Those in favor of preserving the local option saw no reason to forego systems of service that had been successful in achieving effective notice.[9]

H.R. 7154 carries forward the policy of the current rule and permits a party to serve a summons and complaint upon individuals and organizations described in Rule 4(d) (1) and (3) in accordance with the law of the state in which the district court sits. Thus, the bill authorizes four methods of serving a summons and complaint on such defendants: (1) service by a nonparty adult (Rule 4(c)(2)(A)); (2) service by personnel of the Marshals Service, if the party qualifies, such as because the party is proceeding *in forma pauperis* (Rule 4(c)(2)(B)); (3) service in any manner authorized by the law of the state in which the district court is held (Rule 4(c)(2)(C)(i)); or (4) service by regular mail with a notice and acknowledgment of receipt form enclosed (Rule 4(c)(2)(C)(ii)).[10]

5. Time limits

Rule 4 does not currently provide a time limit within which service must be completed. Primarily because United States marshals currently effect service of process, no time restriction has been deemed necessary. Appendix II (Advisory Committee Note). Along with the proposed changes to subdivisions (c) and (d) to reduce the role of the Marshals Service, however, came new subdivision (j), requiring that service of a summons and complaint be made within 120 days of the filing of the complaint. If service were not accomplished within that time, proposed subdivision (j) required that the action "be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative". Service by mail was deemed made for purposes of subdivision (j) "as of the date on which the process was accepted, refused, or returned as unclaimed".[11]

H.R. 7154 adopts a policy of limiting the time to effect service. It provides that if a summons and complaint have not been served within 120 days of the filing of the complaint and the plaintiff fails to show "good cause" for not completing service within that time, then the court must dismiss the action as to the unserved defendant. H.R. 7154 ensures that a plaintiff will be notified of an attempt to dismiss the action. If dismissal for failure to serve is raised by the court upon its own motion, the legislation requires that the court provide notice to the plaintiff. If dismissal is sought by someone else, Rule 5(a) of the Federal Rules of Civil Procedure requires that the motion be served upon the plaintiff.

Like proposed subsection (j), H.R. 7154 provides that a dismissal for failure to serve within 120 days shall be "without prejudice". Proposed subsection (j) was criticized by some for ambiguity because, it was argued, neither the text of subsection (j) nor the Advisory Committee Note indicated whether a dismissal without prejudice would toll a statute of limitation. *See* House Report 97-662, at 3-4 (1982). The problem would arise when a plaintiff files the complaint within the applicable statute of limitation period but does not effect service within 120 days. If the statute of limitation period expires during that period, and if the plaintiff's action is dismissed "without prejudice", can the plaintiff refile the complaint and maintain the action? The answer depends upon how the statute of limitation is tolled.[12]

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[5] The Court's proposal authorized service by the Marshals Service in other situations. This authority, however, was not seen as thwarting the underlying policy of limiting the use of marshals. *See* Appendix II, (Advisory Committee Note).

[6] Appendix I (letter of Assistant Attorney General Robert A. McConnell).

[7] The provisions of H.R. 7154 conflict with 28 U.S.C. 569(b) because the latter is a broader command to marshals to serve all federal court process. As a later statutory enactment, however, H.R. 7154 supersedes 28 U.S.C. 569(b), thereby achieving the goal of reducing the role of marshals.

[8] Proposed Rule 4(d)(8) provided that "Service . . . shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant." This provision reflects a desire to preclude default judgments on unclaimed mail. See Appendix II (Report of the Committee on Rules of Practice and Procedure).

The interpretation of Rule 4(d)(8) to require a refusal of delivery in order to have a basis for a default judgment, while undoubtedly the interpretation intended and the interpretation that reaches the fairest result, may not be the only possible interpretation. Since a default judgment can be entered for defendant's failure to respond to the complaint once defendant has been served and the time to answer the complaint has run, it can be argued that a default judgment can be obtained where the mail was unclaimed because proposed subsection (j), which authorized dismissal of a complaint not served within 120 days, provided that mail service would be deemed made "on the date on which the process was accepted, refused, or *returned as unclaimed*" (emphasis added).

[9] Proponents of the California system of mail service, in particular, saw no reason to supplant California's proven method of mail service with a certified mail service that they believed likely to result in default judgments without actual notice to defendants. *See* House Report No. 97-662, at 3 (1982).

[10] The parties may, of course, stipulate to service, as is frequently done now.

[11] While return of the letter as unclaimed was deemed service for the purpose of determining whether the plaintiff's action could be dismissed, return of the letter as unclaimed was not service for the purpose of entry of a default judgment against the defendant. *See* note 8 supra.

[12] The law governing the tolling of a statute of limitation depends upon the type of civil action involved. In a dversity action, state law governs tolling. *Walker* v. *Armco Steel Corp.*, 446 U.S. 740: (1980). In *Walker*, plaintiff had filed his complaint and thereby commenced the action under Rule 3 of the Federal Rules of Civil Procedure within the statutory period. He did not, however, serve the summons and complaint until after the statutory period had run. The Court held that state law (which required both filing and service within the statutory period) governed, barring plaintiff's action.

In the federal question action, the courts of appeals have generally held that Rule 3 governs, so that the filing of the complaint tolls a statute of limitation. *United States* v. *Wahl*, 583 F. 2d 285 (6th Cir. 1978); *Windbrooke Dev. Co.* v. *Environmental Enterprises Inc. of Fla.*, 524 F. 2d 461 (5th Cir. 1975); *Metropolitan Paving Co.* v. *International Uuion of Operating Engineers*, 439 F.2d 300 (10th Cir. 1971); *Moore Co.* v. *Sid Richardson Carbon & Gasoline Co.*, 347 F.2d 921 (8th Cir.), cert. denied, 383 U.S. 925, reh. denied, 384 U.S. 914 (1965); *Hoffman* v. *Halden*, 268 F.2d 280 (9th Cir. 1959). The

If the law provides that the statute of limitation is tolled by filing and service of the complaint, then a dismissal under H.R. 7154 for failure to serve within the 120 days would, by the terms of the law controlling the tolling, bar the plaintiff from later maintaining the cause of action.[13] If the law provides that the statute of limitation is tolled by filing alone, then the status of the plaintiff's cause of action turns upon the plaintiff's diligence. If the plaintiff has not been diligent, the court will dismiss the complaint for failure to serve within 120 days, and the plaintiff will be barred from later maintaining the cause of action because the statute of limitation has run. A dismissal without prejudice does not confer upon the plaintiff any rights that the plaintiff does not otherwise possess and leaves a plaintiff whose action has been dismissed in the same position as if the action had never been filed. If, on the other hand, the plaintiff has made reasonable efforts to effect service, then the plaintiff can move under Rule 6(b) to enlarge the time within which to serve or can oppose dismissal for failure to serve. A court would undoubtedly permit such a plaintiff additional time within which to effect service. Thus, a diligent plaintiff can preserve the cause of action. This result is consistent with the policy behind the time limit for service and with statutes of limitation, both of which are designed to encourage prompt movement of civil actions in the federal courts.

6. Conforming and clarifying subsections (d)(4) and (5)

Current subsections (d)(4) and (5) prescribe which persons must be served in cases where an action is brought against the United States or an officer or agency of the United States. Under subsection (d)(4), where the United States is the named defendant, service must be made as follows: (1) personal service upon the United States attorney, an assistant United States attorney, or a designated clerical employee of the United States attorney in the district in which the action is brought; (2) registered or certified mail service to the Attorney General of the United States in Washington, D.C.; and (3) registered or certified mail service to the appropriate officer or agency if the action attacks an order of that officer or agency but does not name the officer or agency as a defendant. Under subsection (d)(5), where an officer or agency of the United States is named as a defendant, service must be made as in subsection (d)(4), except that personal service upon the officer or agency involved is required.

The time limit for effecting service in H.R. 7154 would present significant difficulty to a plaintiff who has to arrange for personal service upon an officer or agency that may be thousands of miles away. There is little reason to require different types of service when the officer or agency is named as a party, and H.R. 7154 therefore conforms the manner of service under subsection (d)(5) to the manner of service under subsection (d)(4).

continued validity of this line of cases, however, must be questioned in light of the *Walker* case, even though the Court in that case expressly reserved judgment about federal question actions, *see Walker* v. *Armco Steel Corp.*, 446 U.S. 741, 751 n.11 (1980).

[13] The same result obtains even if service occurs within the 120 day period, if the service occurs after the statute of limitation has run.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 provides that the short title of the bill is the "Federal Rules of Civil Procedure Amendments Act of 1982".

SECTION 2

Section 2 of the bill consists of 7 numbered paragraphs, each amending a different part of Rule 4 of the Federal Rules of Civil Procedure.

Paragraph (1) deletes the requirement in present Rule 4(a) that a summons be delivered for service to the marshal or other person authorized to serve it. As amended by the legislation, Rule 4(a) provides that the summons be delivered to "the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and complaint". This change effectuates the policy proposed by the Supreme Court. See Appendix II (Advisory Committee Note).

Paragraph (2) amends current Rule 4(c), which deals with the service of process. New Rule 4(c)(1) requires that all process, other than a subpoena or a summons and complaint, be served by the Marshals Service or by a person specially appointed for that purpose. Thus, the Marshals Service or persons specially appointed will continue to serve all process other than subpoenas and summonses and complaints, a policy identical to that proposed by the Supreme Court. *See* Appendix II (Report of the Judicial Conference Committee on Rules of Practice and Procedure). The service of subpoenas is governed by Rule 45,[14] and the service of summonses and complaints is governed by new Rule 4(c)(2).

New Rule 4(c)(2)(A) sets forth the general rule that summonses and complaints shall be served by someone who is at least 18 years old and not a party to the action or proceeding. This is consistent with the Court's proposal. Appendix II (Advisory Committee Note). Subparagraphs (B) and (C) of new Rule 4(c)(2) set forth exceptions to this general rule.

Subparagraph (B) sets forth 3 exceptions to the general rule. First, subparagraph (B)(i) requires the Marshals Service (or someone specially appointed by the court) to serve a summons and complaint on behalf of a party proceeding *in forma pauperis* or a seaman authorized to proceed under 28 U.S.C. 1916. This is identical to the Supreme Court's proposal. *See* Appendix II (text of proposed rule) (Advisory Committee Note). Second, subparagraph (B)(ii) requires the Marshals Service (or someone specially appointed by the court) to serve a summons and complaint on behalf of the United States or an officer or agency thereof. This achieves the desired reduction in the role of marshals, yet maintains the appropriate use of marshals to serve on behalf of the Government. Third, subparagraph B(iii) requires the Marshals Service (or someone specially appointed by the court) to serve a summons and complaint when the court orders such person to do so in order properly to effect service in that particular action.[15] This, except for nonsubstantive changes in phrasing, is identical to the Supreme Court's proposal. See Appendix II (text of proposed rule) (Advisory Committee Note).

Subparagraph (C) of new Rule 4(c)(2) provides 2 exceptions to the general rule of service by a nonparty adult. These exceptions apply only when the summons and complaint is to be served upon persons described in Rule 4(d)(1) (certain individuals) or Rule 4(d)(3) (organizations).[16] First, subparagraph (C)(i) permits service of a summons and complaint in a manner authorized by the law of the state in which the court sits. This restates the option to follow local law currently found in Rule 4(d)(7) and would authorize service by mail if the state law so allowed. The method of mail service in that instance would, of course, be the method permitted by state law.

Second, subparagraph (C)(ii) permits service of a summons and complaint by regular mail. The sender must send to the defendant, by first-class mail, postage prepaid, a copy of the summons and complaint, together with 2 copies of a notice and acknowledgment of receipt of summons and complaint form and a postage prepaid return envelope addressed to the sender. If a copy of the notice and acknowledgment form is not received by the sender within 20 days after the date of mailing, then service must be made under Rule 4(c)(2)(A) or (B) (i.e., by a nonparty adult or, if the person qualifies,[17] by personnel of the Marshals Service or a person specially appointed by the court) in the manner prescribed by Rule 4(d)(1) or (3) (i.e., personal or substituted service).

New Rule 4(c)(2)(D) permits a court to penalize a person who avoids service by mail. It authorizes the court to order a person who does not return the notice and acknowledgment form within 20 days after mailing to pay the costs of service, unless that person can show good cause for failing to return the form. The purpose of this provision is to encourage the prompt return of the form so that the action can move forward without unnecessary delay. Fairness requires that a person who causes another additional and unnecessary expense in ef-

[14] Rule 45(c) provides that "A subpoena may be served by the marshal, by his deputy, or by any other person who is not a party and is not less than 18 years of age."

[15] Some litigators have voiced concern that there may be situations in which personal service by someone other than a member of the Marshals Service may present a risk of injury to the person attempting to make the service. For example, a hostile defendant may have a history of injuring persons attempting to serve process. Federal judges undoubtedly will consider the risk of harm to private persons who would be making personal service when deciding whether to order the Marshals Service to make service under Rule 4(c)(2)(B)(iii).

[16] The methods of service authorized by Rule 4(c)(2)(C) may be invoked by any person seeking to effect service. Thus, a nonparty adult who receives the summons and complaint for service under Rule 4(c)(1) may serve them personally or by mail in the manner authorized by Rule 4(c)(2)(C)(ii). Similarly, the Marshals Service may utilize the mail service authorized by Rule 4(c)(2)(C)(ii) when serving a summons and complaint under Rule 4(c)(2)(B)(i)(ii). When serving a summons and complaint under Rule 4(c)(2)(B)(iii), however, the Marshals Service must serve in the manner set forth in the court's order. If no particular manner of service is specified, then the Marshals Service may utilize Rule 4(c)(2)(C)(ii). It would not seem to be appropriate, however, for the Marshals Service to utilize Rule 4(c)(2)(C)(ii) in a situation where a previous attempt to serve by mail failed. Thus, it would not seem to be appropriate for the Marshals Service to attempt service by regular mail when serving a summons and complaint on behalf of a plaintiff who is proceeding *in forma pauperis* if that plaintiff previously attempted unsuccessfully to serve the defendant by mail.

[17] To obtain service by personnel of the Marshals Service or someone specially appointed by the court, a plaintiff who has unsuccessfully attempted mail service under Rule 4(c)(2)(C)(ii) must meet the conditions of Rule 4(c)(2)(B)—for example, the plaintiff must be proceeding *in forma pauperis*.

fecting service ought to reimburse the party who was forced to bear the additional expense.

Subparagraph (E) of Rule 4(c)(2) requires that the notice and acknowledgment form described in new Rule 4(c)(2)(C)(ii) be executed under oath or affirmation. This provision tracks the language of 28 U.S.C. 1746, which permits the use of unsworn declarations under penalty of perjury whenever an oath or affirmation is required. Statements made under penalty of perjury are subject to 18 U.S.C. 1621(2), which provides felony penalties for someone who "willfully subscribes as true any material matter which he does not believe to be true". The requirement that the form be executed under oath or affirmation is intended to encourage truthful submissions to the court, as the information contained in the form is important to the parties.[18]

New Rule 4(c)(3) authorizes the court freely to make special appointments to serve summonses and complaints under Rule 4(c)(2)(B) and all other process under Rule 4(c)(1). This carries forward the policy of present Rule 4(c).

Paragraph (3) of section 2 of the bill makes a non-substantive change in the caption of Rule 4(d) in ordr to reflect more accurately the provisions of Rule 4(d). Paragraph (3) also deletes a provision on service of a summons and complaint pursuant to state law. This provision is redundant in view of new Rule 4(c)(2)(C)(i).

Paragraph (4) of section 2 of the bill conforms Rule 4(d)(5) to present Rule 4(d)(4). Rule 4(d)(5) is amended to provide that service upon a named defendant agency or officer of the United States shall be made by "sending" a copy of the summons and complaint "by registered or certified mail" to the defendant. Rule 4(d)(5) currently provides for service by "delivering" the copies to the defendant, but 28 U.S.C. 1391(e) authorizes delivery upon a defendant agency or officer outside of the district in which the action is brought by means of certified mail. Hence, the change is not a marked departure from current practice.

Paragraph (5) of section 2 of the bill amends the caption of Rule 4(e) in order to describe subdivision (e) more accurately.

Paragraph (6) of section 2 of the bill amends Rule 4(g), which deals with return of service. Present Rule 4(g) is not changed except to provide that, if service is made pursuant to the new system of mail service (Rule 4(c)(2)(C)(ii)), the plaintiff or the plaintiff's attorney must file with the court the signed acknowledgment form returned by the person served.

Paragraph (7) of section 2 of the bill adds new subsection (j) to provide a time limitation for the service of a summons and complaint. New Rule 4(j) retains the Supreme Court's requirement that a summons and complaint be served within 120 days of the filing of the complaint. See Appendix II (Advisory Committee Note).[19] The plaintiff must be notified of an effort or intention to dismiss the action. This notification is mandated by subsection (j) if the dismissal is being raised on the court's own initiative and will be provided pursuant to Rule 5 (which requires service of motions upon the adverse party) if the dismissal is sought by someone else.[20] The plaintiff may move under Rule 6(b) to enlarge the time period. See Appendix II, at Id. (Advisory Committee Note). If service is not made within the time period or enlarged time period, however, and if the plaintiff fails to show "good cause" for not completing service, then the court must dismiss the action as to the unserved defendant. The dismissal is "without prejudice". The term "without prejudice" means that the dismissal does not constitute an adjudication of the merits of the complaint. A dismissal "without prejudice" leaves a plaintiff whose action has been dismissed in the position in which that person would have been if the action had never been filed.

SECTION 3

Section 3 of the bill amends the Appendix of Forms at the end of the Federal Rules of Civil Procedure by adding a new Form 18–A, "Notice and Acknowledgment for Service by Mail". This new form is required by new Rule 4(c)(2)(C)(ii), which requires that the notice and acknowledgment form used with service by regular mail conform substantially to Form 18–A.

Form 18–A as set forth in section 3 of the bill is modeled upon a form used in California.[21] It contains 2 parts. The first part is a notice to the person being served that tells that person that the enclosed summons and complaint is being served pursuant to Rule 4(c)(2)(C)(ii); advises that person to sign and date the acknowledgment form and indicate the authority to receive service if the person served is not the party to the action (e.g., the person served is an officer of the organization being served); and warns that failure to return the form to the sender within 20 days may result in the court ordering the party being served to pay the expenses involved in effecting service. The notice also warns that if the complaint is not responded to within 20 days, a default judgment can be entered against the party being served. The notice is dated under penalty of perjury by the plaintiff or the plaintiff's attorney.

The second part of the form contains the acknowledgment of receipt of the summons and complaint. The person served must declare on this part of the form, under penalty of perjury, the date and place of service and the person's authority to receive service.

SECTION 4

Section 4 of the bill provides that the changes in Rule 4 made by H.R. 7154 will take effect 45 days after enactment, thereby giving the bench and bar, as well as other interested persons and organizations (such as the Marshals Service), an opportunity to prepare to implement the changes made by the legislation. The delayed effective date means that service of process issued before the effective date will be made in accordance with current Rule 4. Accordingly, all process in the hands of the Marshals Service prior to the effective date will be served by the Marshals Service under the present rule.

SECTION 5

Section 5 of the bill provides that the amendments to Rule 4 proposed by the Supreme Court (whose effective date was postponed by Public Law 97–227) shall not take effect. This is necessary because under Public Law 97–227 the proposed amendments will take effect on October 1, 1983.

APPENDIX I

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., July 19, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has been brought to our attention that a pending bill, H.R. 6663, would delay the effective date of recent amendments to Rule 4 of the Federal Rules of Civil Procedure from August 1, 1982 to October 1, 1983. For the reasons set forth below, we strongly oppose any extension of the effective date of amended Rule 4.

The primary purpose of the recent amendments to Rule 4 was to eliminate the use of the United States Marshals Service to serve process for private parties in civil actions. At least in part, a major impetus for the amendments was the Department of Justice itself, which had found that the Marshals Service's increasing workload and limited budget required major relief from the burdens imposed by its role as process-server in all civil actions. Accordingly, the Department requested, and the Judicial Conference and Supreme Court approved, amendments to Rule 4 which would alleviate the problems of the Marshals Service.

We believe that no useful purpose would be served by delaying the effective date of amended Rule 4. The Marshals Service and the Department's litigating units have made the necessary arrangements to implement the amended Rule. Moreover, the fourteen-month delay sought by H.R. 6663 would greatly postpone much-needed relief for the Marshals Service. Accordingly, we believe that amended Rule 4 should be allowed to take effect on August 1, as planned.

In his statement accompanying the introduction of H.R. 6663, Representative Edwards raised the question whether amended Rule 4 could possibly take effect without a corresponding change in 28 U.S.C. § 569(b).

Pursuant to 28 U.S.C. 2072, the Supreme Court has the power to prescribe by general rules "the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts. * * * Such rules shall not abridge, enlarge or modify any substantial right * * *. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect * * *." Prescribing the manner in which a defendant is to be notified that a suit has been instituted against him relates to the "practice and procedure of the district courts." *Hanna* v. *Plumer*, 380 U.S. 460, 464 (1964). Thus, it is clear that insofar as Rule 4, as amended, may conflict with 28 U.S.C. 569(b), Rule 4 applies and that this was the result intended by Congress in enacting 28 U.S.C. 2072.

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[18] For example, the sender must state the date of mailing on the form. If the form is not returned to the sender within 20 days of that date, then the plaintiff must serve the defendant in another manner and the defendant may be liable for the costs of such service. Thus, a defendant would suffer the consequences of a misstatement about the date of mailing.

[19] The 120 day period begins to run upon the filing of each complaint. Thus, where a defendant files a cross-claim against the plaintiff, the 120 day period begins to run upon the filing of the cross-complaint, not upon the filing of the plaintiff's complaint initiating the action.

[20] The person who may move to dismiss can be the putative defendant (i.e., the person named as defendant in the complaint filed with the court) or, in multi-party actions, another party to the action. (If the putative defendant moves to dismiss and the failure to effect service is due to that person's evasion of service, a court should not dismiss because the plaintiff has "good cause" for not completing service.)

[21] *See* Cal. Civ. Pro. § 415.30 (West 1973).

While a statutory change is not a necessary predicate to amending Rule 4, this Department reiterates its position that amending Rule 4 may not be enough to achieve the desired objective of reducing the role of the U.S. Marshals in serving private process. Rather than only amending Rule 4, we recommend: (a) amendments to 28 U.S.C. § 569(b) redefining the Marshals traditional role by eliminating the statutory requirement that they serve all civil process and; (b) amendments to 28 U.S.C. § 1921 changing the manner and level in which marshal fees are charged for serving private civil process. These legislative changes are embodied in Section 10 of S. 2567 and the Department's proposed Fiscal Year 1983 Appropriations Authorization bill. Thus, the proposed amendments to Rule 4 and 28 U.S.C. §§ 569(b) and 1921 can be seen as integral parts of a comprehensive solution to the problems associated with service of private process by the U.S. Marshals Service.

I trust our comments will be useful to the Committee in its consideration of H.R. 6663. Please do not hesitate to contact me with any questions or concerns you might have concerning the bill or the Department of Justice's comments on it.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

APPENDIX II

97th Congress, 2d Session—House
Document No. 97-173

EXCERPTS OF AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Communication from the Chief Justice of the United States transmitting amendments to the Federal Rules of Civil Procedure, pursuant to 28 U.S.C. 2072, together with an excerpt from the reports of the Judicial Conference of the United States containing the Advisory Committee notes.

April 29, 1982.—Referred to the Committee on the Judiciary and ordered to be printed.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., April 28, 1982.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: By direction of the Supreme Court of the United States, I have the honor to submit to the Congress amendments to the Federal Rules of Civil Procedure prescribed pursuant to Section 2072 of Title 28, United States Code;

Amendments to the Federal Rules of Criminal Procedure prescribed pursuant to Section 3771 and 3772 of Title 18, United States Code; and

Amendments to the Rules and Forms Governing Proceedings in the United States District Courts under Section 2254 and 2255 of Title 28, United States Code.

Accompanying these rules are excerpts from the Reports of the Judicial Conference of the United States containing the Advisory Committee notes which were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Respectfully,

WARREN E. BURGER,
Chief Justice.

AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Ordered:

1. That the Federal Rules of Civil Procedure be, and they hereby are, amended by including therein amendments to Rule 4 as hereinafter set forth:

Rule 4. Process:

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to the plaintiff or his attorney. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

* * * * *

(c) By Whom Served:

(1) Service of a summons and complaint shall be made by any person who is not a party and is not less than 18 years of age except as provided in subdivision (c)(2) of this rule.

(2) At the request of a party, service of a summons and complaint shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose—

(A) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915 or of a seaman authorized to proceed under Title 28, U.S.C. § 1916,

(B) pursuant to any statutory provision expressly providing for service by a United States marshal or his deputy, and

(C) pursuant to any order issued by the court stating that service in that particular action is required to be made by a United States marshal, deputy, or special appointee in order to guarantee that service is properly effected.

(3) Service of all other process shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose.

(4) The plaintiff or his attorney shall be responsible for making arrangements for prompt service. Special appointments to serve process shall be made freely.

(d) Summons and Complaint: Personal Service and Service by Mail. The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

* * * * *

(7) For service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if the summons and complaint are served in the manner prescribed by any statute of the United States or in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state; except that a summons and complaint served by mail may be served only as authorized by and pursuant to the procedures set forth in paragraph (8) of this subdivision of this rule.

(8) Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a United States marshal or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. If delivery of the process is refused, the person serving the process, promptly upon the receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside pursuant to Rule 5(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person.

(e) Same: Service Upon Party Not Inhabitant of or Found Within State. Whenever a statute of the United States or an order of court thereunder provides for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state in which the district court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to him to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of his property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule; except that service by mail must be made pursuant to the procedures set forth in paragraph (8) of subdivision (d) of this rule.

* * * * *

(g) Return. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or his deputy, he shall make affidavit thereof. If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope if and when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service mailed to the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become part of the record. Failure to make proof of service does not affect the validity of the service.

* * * * *

(j) Summons: Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative. If service is made by mail pursuant to Rule 4(d)(8), service shall be deemed to have been made for the purposes of this provision as of the date on which the process was accepted, refused, or returned as unclaimed. This subdivision

shall not apply to service in a foreign country pursuant to Rule 4(i).

2. That the foregoing amendments to the Federal Rules of Civil Procedure shall take effect on August 1, 1982, and shall govern all civil proceedings thereafter commenced and, insofar as just and reasonable, all proceedings then pending.

3. That the Chief Justice be, and he hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Civil Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

EXCERPT FROM THE REPORT OF THE JUDICIAL CONFERENCE COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

To the Chief Justice of the United States, Chairman, and Members of the Judicial Conference of the United States:

FEDERAL RULES OF CIVIL PROCEDURE

A. The Advisory Committee on the Federal Rules of Civil Procedure has submitted to your Committee proposed amendments to Rule 4 of the Federal Rules of Civil Procedure pertaining to the service of process in a civil action. The proposed amendments to the rule are set out in Appendix A and are accompanied by an advisory committee note explaining their purpose and intent.

The proposed amendments are designed to relieve the United States marshals of the duty of serving summonses and complaints in most civil actions in which the government is not a party. Any person who is not a party to the litigation and is not less than 18 years of age would be permitted to serve the summons and complaint. In addition, the amendments would permit service of summonses and complaints by registered or certified mail, return receipt requested and delivery restricted to the addressee. A default or default judgment could not be entered unless it appears of record that the defendant accepted or refused to accept service by mail.

At the request of a party, the United States marshals would continue to serve the summons and complaint: (1) on behalf of a party authorized to proceed in forma pauperis 28 U.S.C. §1915, or of a seaman authorized to proceed without the prepayment of costs, 28 U.S.C. §1916; (2) when required by Federal statute; and (3) pursuant to a court order when necessary to guarantee effective service in a particular action. The marshals would continue to serve forms of process which require an enforcement presence, such as temporary restraining orders, injunctions, attachments, arrests and orders relating to judicial sales.

The proposed amendments to Rule 4 are occasioned by the reduction in appropriations available to the Marshal's Service and pending legislation to relieve marshals of the duty to serve the summons and complaint in private civil litigation. Appropriations have already been reduced and it appears that the proposed legislation will soon be enacted into law. For these reasons it is important that Rule 4 be amended promptly.

Your Committee recommends that the proposed amendments to Rule 4 be approved by the Conference and transmitted immediately to the Supreme Court for its consideration with the recommendation that the amendments be approved and transmitted to the Congress pursuant to law.

B. The Advisory Committee has conducted public hearings on the proposed amendments to the civil rules distributed to the bench and bar last June. The Committee has reviewed all comments received and will be submitting its proposals in final form at the June meeting of the Standing Committee.

MARCH 1982.

APPENDIX A

To the Committee on Rules of Practice and Procedure:

I have the honor of submitting herewith our Committee's final draft of proposed amendments to Rule 4 of the Federal Rules of Civil Procedure and its Advisory Note, which recommend changes designed to relieve United States marshals of the duty of serving summonses and complaints in most federal civil litigation in which the government is not a party. Under the amendments the marshals would be obligated to serve such process only to the extent required by federal statute, court order, or where an enforcement presence is advisable, e.g., service of restraining orders, attachments, arrests and notices of judicial sales.

The draft amendments authorize service of a summons or complaint to be made by any non-party over 18 years of age, a procedure that has worked satisfactorily in a substantial number of other jurisdictions. Service must be made within 120 days after the filing of the complaint unless an enlargement of time is obtained by order of the court pursuant to Rule 6(b). Under the amendments special provisions authorizing service by certain facilities, such as sheriffs, state court officers or private process servers, would no longer be required, as long as the person making service is a non-party and over 18 years of age. A uniform and exclusive method of serving a summons and complaint by registered mail is also authorized by subdivision (d)(8).

A preliminary draft sent out by our Committee to the public in September 1981 provided that service of a summons and complaint, except where required to be made by a marshal or special appointee, must be made by a private process server registered with the clerk of the district court. The proposal met substantial opposition and was found inadvisable for the reason that, although it might assist in reducing some risks of fraud or inefficiency, the courts' assumption of responsibilities hitherto borne by the marshals' service posed numerous difficult administrative problems, including investigation into the qualifications and integrity of those seeking to act as professional process servers, regulation of their fees, and burdensome maintenance of records, which federal courts should not be required to assume. Accordingly our Committee recommends the simple procedure of authorizing service by any non-party adult.

We believe that the amended rule, if adopted, will relieve the marshals of a very large share of service duties which they are finding it difficult if not impossible to perform within present statutory budget and fee restrictions and that it is consistent with legislation on the subject now pending before the Congress.

Respectfully submitted.

WALTER R. MANSFIELD,
Chairman, Advisory Committee on Federal Civil Rules.

JANUARY 15, 1982.

PROPOSED AMENDMENTS TO RULE 4 OF THE FEDERAL RULES OF CIVIL PROCEDURE*

RULE 4. PROCESS

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to [the marshal or to any other person authorized by Rule 4(c) to serve it] *the plaintiff or his attorney.* Upon request of the plaintiff separate or additional summons shall issue against any defendants.

* * * * *

(c) By whom served.

(1) Service of [process] *a summons and complaint* shall be made by *any person who is not a party and is not less than 18 years of age except as provided in subdivision (c)(2) of this rule.*

(2) At the request of a party, service of a summons and complaint shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose—

(A) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. §1915 or of a seamen authorized to proceed under Title 28, U.S.C. §1916,

(B) pursuant to any statutory provision expressly providing for service by a United States marshal or his deputy, and

(C) pursuant to any order issued by the court stating that service in that particular action is required to be made by a United States marshal, deputy, or special appointee in order to guarantee that service is properly effected. [, except that a subpoena may be served as provided in Rule 45. Special appointment to serve process shall be made freely.]

(3) Service of *all other* process may [also] *shall* be made by a [person authorized to serve process in an action brought in the courts of general jurisdiction of the state in which the district court is held or in which service is made] *United States marshal, by his deputy, or by some person specially appointed by the court for that purpose.*

(4) The plaintiff or his attorney shall be responsible for making arrangements for prompt service. Special appointments to serve process shall be made freely.

(d) Summons *and complaint:* Personal service *and service by mail.* The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

* * * * *

(7) *For service* upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if the summons and complaint are served in the manner prescribed by any statute of the United States or in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state; *except that a summons and complaint served by mail may be served only as authorized by and pursuant to the procedures set forth in paragraph (8) of this subdivision of this rule.*

(8) Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pur-

*New matter is in italic; matter to be omitted is in black brackets.

suant to Rule 4(c), including a United States marshal or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. If delivery of the process is refused, the person serving the process, promptly upon the receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person.

(e) Same: Service upon party not inhabitant of or found within State. Whenever a statute of the United States or an order of court thereunder provides for service of a summons, [or of] a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state in which the district court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, [or of] a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to him to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of his property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule; *except that service by mail must be made pursuant to the procedures set forth in paragraph (8) of subdivision (d) of this rule.*

* * * * *

(g) Return. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or his deputy, he shall make affidavit thereof. *If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope if and when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service mailed to the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become part of the record.* Failure to make proof of service does not affect the validity of the service.

* * * * *

(j) Summons: Time limit for service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative. If service is made by mail pursuant to Rule 4(d)(8), service shall be deemed to have been made for the purposes of this provision as of the date on which the process was accepted, refused, or returned as unclaimed. This subdivision shall not apply to service in a foreign country pursuant to Rule 4(i).

ADVISORY COMMITTEE NOTE

Subdivision (a). This amendment conforms this subdivision to the amendment to subdivision (c), and emphasizes the Committee's intent that methods of service other than by United States marshals should be utilized whenever appropriate.

Subdivision (c). The purpose of this amendment is to reduce the burden on the United States Marshal Service of serving civil process in private litigation, without endangering the effective and efficient service of civil process. Service of summonses and complaints, which now comprise the bulk of service by a marshal, rarely require the presence of any enforcement officer. However, the alternative of restricting such service to a narrow group, such as registered professional process servers, would impose excessive administrative burdens on the court. The amendment therefore permits service to be made by any non-party adult, a procedure that has functioned successfully in a number of jurisdictions where it is presently authorized. See, e.g., Cal. Civ. Code § 414.10 (West); D.C.C.E. Superior Ct. Rules—Civil 4(c)(2); N.M. Stat. Ann. § 21-1-1 (Rule 4(e)(1)); N.Y. Civ. Prac. Law § 2103(a); N.D.R. Civ. P. 4(d)(1); Va. Code § 8.01-293(2); Wisc. R. Civ. P. 801.10(1); Wisc. Stat. Ann. § 801.10(1) (West). To the extent that other facilities for personal service of process (as distinguished from service by mail, see subdivision (d)(8) of this Rule, *infra*), such as sheriffs, court officers, or professional process servers, remain available, the amendment would not preclude their being used, provided the person making service is a non-party over 18 years of age.

In keeping with the policy of relieving marshals to the maximum extent possible of the duty of serving summonses and complaints, subdivision (c)(2) limits the cases in which marshals may be required to make such service to three categories: (1) *in forma pauperis* and seamen's suits, (2) cases in which service by a marshal is specifically mandated or authorized by statute, including service on behalf of the United States pursuant to Title 28, U.S.C. § 569(b), and (3) those limited number of instances in which the court, having been satisfied that service by a marshal or special appointee is necessary to assure that service will be effected, issues an order accordingly. Even in these three categories the plaintiff is expected first to seek service by private means whenever feasible rather than impose the burden on the Marshals Service. Similarly, court orders directing service by marshal should not be issued unless they really are necessary. In short, the aim is to encourage use of methods that do not involve marshals.

Under paragraph (c)(3), forms of process which require an enforcement presence, such as temporary restraining orders, injunctions, attachments, arrets, and orders relating to judicial sales, shall be served by marshals, their deputies, and persons specially appointed by the court. This language continues the current practice of district courts and encourages the use of special appointees when an enforcement presence is not necessary or a marshal is not available.

Paragraph (c)(4) places responsibility on the plaintiff for arranging service by private process server, special appointee, or marshal. It also provides for courts to make special appointments under paragraphs (c)(2) and (3) freely.

Subdivision (d)(7). The amendment makes subdivision (d)(8) the exclusive procedure in federal courts for serving summonses and complaints by mail. This provision, however, deals only with the procedure for use of the mails for service and does not otherwise affect federal or state statutory authorizations for service of process.

Subdivision (d)(8). The proposed amendment authorizes the service of summonses and complaints by registered or certified mail upon individual defendants other than infants and incompetent persons and upon defendants that are business entities. Service upon defendants described in paragraphs (2), (4), (5) and (6) of this subdivision is not affected. Service that could be made pursuant to paragraph (c)(1) may be mailed by the plaintiff, his attorney, or any person over 18 years of age. When the marshal, his deputy, or a special appointee is called upon to make service upon an individual or business entity pursuant to one of the subparagraphs of paragraph (c)(2) including routine in forma pauperis and seamen's cases, such person may serve by mail except when personnal service is required by statute.

The proposed amendment is designed to permit mail service to be the basis for the entry of defaults and default judgments when actual notice reasonably can be expected to have occurred. Thus, if the defendant or a person authorized to accept process for him either has signed the return receipt or has refused to accept the process, a default could be entered. In the case of a refusal, additional notice must be sent to the defendant. It is important to note that because paragraph (d)(8) restricts delivery to the addressee, only the defendant or persons expressly authorized to accept for the defendant—for example, by letter—could sign the return receipt.

Subdivision (e). The added sentence simply makes clear that when service under this subdivision is made by mail, it shall be in the manner prescribed by subdivision (d)(8).

Subdivision (g). The proposed amendment specifies additional procedures for making proof of service of process, which are necessitated by the proposed amendment to subdivision (d)(8).

Subdivision (j). Rule 4, as it presently is drafted, provides no time limit for the service of summonses and complaints. As long as service was performed by marshals such a restriction was not necessary. However, the proposed gradual elimination of marshal service raises new concerns about timeliness. Thus, the proposed amendment requires service of process to be made within 120 days after filing the complaint. Unless the time is enlarged by the court pursuant to Rule 6(b), failure to meet this deadline will result in dismissal of the action without prejudice. This subdivision does not apply to attempted service in a foreign country pursuant to Rule 4(i).

Mr. McCLORY. Mr. Speaker, I thank the gentleman from California (Mr. EDWARDS), and I commend the gentleman on having worked out this compromise. I think it is a very reasonable compromise.

Mr. Speaker, I rise in support of the legislation being proposed by my good friend and colleague from California (Mr. EDWARDS). There is no opposition to H.R. 7154 from our side of the aisle. In addition, the bill has the support of the U.S. Judicial Conference, the Department of Justice, and the U.S. Marshals Service. I am not aware of any opposition to this legislation.

The bill, of which I am a cosponsor, amends the rules of civil procedure to provide that U.S. marshals will not ordinarily serve summonses and complaints in private civil suits. This bill presents a compromise between the Department of Justice and the Judicial Conference, and I urge my colleagues to support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7154

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Rules of Civil Procedure Amendments Act of 1982".

SEC. 2. The Federal Rules of Civil Procedure are amended as follows:

(1) Rule 4(a) of such Rules is amended by striking out "it for service to the marshal or to any other person authorized by Rule 4(c) to serve it" and inserting in lieu thereof "the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint".

(2) Subsection (c) of Rule 4 of such Rules is amended to read as follows:

"(c) SERVICE.

"(1) Process, other than a subpoena or a summons and complaint, shall be served by a United States marshal or deputy United States marshal, or by a person specially appointed for that purpose.

"(2)(A) A summons and complaint shall, except as provided in subparagraphs (B) and (C) of this paragraph, be served by any person who is not a party and is not less than 18 years of age.

"(B) A summons and complaint shall, at the request of the party seeking service or such party's attorney, be served by a United States marshal or deputy United States marshal, or by a person specially appointed by the court for that purpose, only—

"(i) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916,

"(ii) on behalf of the United States or an officer or agency of the United States, or

"(iii) pursuant to an order issued by the court stating that a United States marshal or deputy United States marshal, or a person specially appointed for that purpose, is required to serve the summons and complaint in order that service be properly effected in that particular action.

"(C) A summons and complaint may be served upon a defendant of any class referred to in paragraph (1) or (3) of subdivision (d) of this rule—

"(i) pursuant to the law of the State in which the district court is held for the service of summons or other like process upon such defendant in an action brought in the courts of general jurisdiction of that State, or

"(ii) by mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served, together with two copies of a notice and acknowledgment conforming substantially to form 18-A and a return envelope, postage prepaid, addressed to the sender. If no acknowledgment of service under this subdivision of this rule is received by the sender within 20 days after the date of mailing, service of such summons and complaint shall be made under subparagraph (A) or (B) of this paragraph in the manner prescribed by subdivision (d)(1) or (d)(3).

"(D) Unless good cause is shown for not doing so the court shall order the payment of the costs of personal service by the person served if such person does not complete and return within 20 days after mailing, the notice and acknowledgment of receipt of summons.

"(E) The notice and acknowledgment of receipt of summons and complaint shall be executed under oath or affirmation.

"(3) The court shall freely make special appointments to serve summonses and complaints under paragraph (2)(B) of this subdivision of this rule and all other process under paragraph (1) of this subdivision of this rule.".

(3) Rule 4(d) of such Rules is amended—

(A) by striking out "SUMMONS: PERSONAL SERVICE" and inserting "SUMMONS AND COMPLAINT: PERSON TO BE SERVED" in lieu thereof; and

(B) by striking out paragraph 7.

(4) Rule 4(d)(5) of such Rules is amended—

(A) by striking out "delivering" and inserting "sending" in lieu thereof, and

(B) by inserting "by registered or certified mail" after "complaint".

(5) Rule 4(e) of such Rules is amended by striking out "SAME" and inserting "SUMMONS" in lieu thereof.

(6) Subdivision (g) of Rule 4 of such Rules is amended to read as follows:

"(g) RETURN. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or deputy United States marshal, such person shall make affidavit thereof. If service is made under subdivision (c)(2)(C)(ii) of this rule, return shall be made by the sender's filing with the court the acknowledgment received pursuant to such subdivision. Failure to make proof of service does not affect the validity of the service.".

(7) Rule 4 of such Rules is amended by adding at the end the following:

"(j) SUMMONS: TIME LIMIT FOR SERVICE. If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion. This subdivision shall not apply to service in a foreign country pursuant to subdivision (i) of this rule.".

SEC. 3. The Appendix of Forms at the end of the Federal Rules of Civil Procedure is amended by inserting after Form 18 the following:

"FORM 18-A.—NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL.

"United States District Court for the Southern District of New York

"Civil Action, File Number ——

"A. B., Plaintiff v. "C. D., Defendant/ Notice and Acknowledgment of Receipt of Summons and Complaint

NOTICE

"To: (insert the name and address of the person to be served.)

"The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

"You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

"You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

"If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

"If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

"I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on (insert date).

"

Signature

"

Date of Signature

"ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

"I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned manner at (insert address).

"Signature

"Relationship to Entity/Authority to Receive Service of Process

"

Date of Signature".

SEC. 4. The amendments made by this Act shall take effect 45 days after the enactment of this Act.

SEC. 5. The amendments to the Federal Rules of Civil Procedure, the effective date of which was delayed by the Act entitled "An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure", approved August 2, 1982 (96 Stat. 246), shall not take effect.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motio to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that

all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5133, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, December 10, 1982, the bill was considered as having been read and open to amendment at any point.

Are there any further amendments to the bill?

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from New York (Mr. OTTINGER) reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Page 8, line 3, strike out "For" and insert in lieu thereof "Except as provided to subsection (b)".

Page 8, insert after the table before line 11, the following:

"(b) SPECIAL RULE.—(1) For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer that began automobile production or assembly in the United States between January 1, 1980, and December 31, 1982, shall not be less than the applicable minimum content ratio specified in the following table:

Model year 1984

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 90,000.
Over 900,000	30 percent.

Model year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 45,000.
Over 900,000	60 percent.

Model year 1986

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.
Over 900,000	90 percent.

Model year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 15,000.
Over 900,000	90 percent.

Each model year after model year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The ratio determined by the Secretary under paragraph (2).
Over 900,000	90 percent.

(2) The Secretary shall establish the minimum domestic content ratio for each model year after model year 1987 for vehicle manufacturers selling over 100,000 but not over 900,000 motor vehicles in the United States during such year. In establishing each such ratio, the Secretary shall take into account the extent to which changes in the technological and economic factors applicable to the production of motor vehicles in the United States have affected the carrying out of the purposes of this Act, but a ratio established under this paragraph for any model year may not be greater than 50 percent, nor less than the percentage achieved in model year 1987.

(3) If during any model year the level of the automobile production or assembly in the United States of a vehicle manufacturer falls below the production or assembly level of such manufacturer in the United States during the model year beginning after December 31, 1981, then subsection (a) shall apply to such manufacturer.

Page 8, line 11, strike out "(b)" and insert "(c)".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) will be recognized for 5 minutes in support of his amendment.

The Chair will inquire, does the gentleman from New York (Mr. OTTINGER) continue to reserve his point of order on the amendment?

Mr. OTTINGER. No, Mr. Chairman, I will drop my reservation of a point of order.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Chairman, I thank the gentleman for yielding, and I would just like to make the following statement:

I appreciate the fact that there are a good number of amendments remaining on this bill. There is no further business when we get through with this bill, so whether it is 6, 8, 10, or 12 o'clock, it is the intent of the Chair to complete this piece of legislation. So it behooves the Members to think about that, and it is up to them to expedite the business of the day as they see fit. This will be the final piece of legislation for today.

Mr. BROWN of Ohio. Mr. Chairman, I thank the distinguished Speaker.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Chair understands that the gentleman from Michigan (Mr. DINGELL) reserves a point of order?

Mr. DINGELL. Yes, Mr. Chairman.

Mr. BROWN of Ohio. Mr. Chairman, I think the point of order is too late, is it not?

The CHAIRMAN. It is a reservation of a point of order.

Mr. BROWN of Ohio. Mr. Chairman, may I ask, can a reservation of a point of order come at any time? I had yielded to the Speaker, and the debate had begun on the amendment.

The CHAIRMAN. The gentleman is correct. A point of order was reserved and then withdrawn, and the gentleman from Ohio (Mr. BROWN) was recognized for 5 minutes on his amendment and had yielded. The point of order cannot be reserved at this time.

The gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, among those who have introduced this bill and favor it, there are many aspirations for its accomplishment. Some of those include the idea that it will create jobs in this country.

Now, I am not in my amendment talking about jobs that we hope will materialize if this bill is passed. What I am talking about is not wishes but jobs that already exist, jobs that we stand to lose if this bill is not modified. That is why I am offering this amendment to lower the requirements for Honda of America and let it know that we not only appreciate the jobs that it provides here by building some of its automobiles in the United States but that we are not going to impede those efforts with guessing games over content requirements, and that we want to encourage it to increase its production in this country.

My amendment would modify the ratios to provide ample room for unforeseen changes in the business environment and provide our foreign friends with room to grow and flourish with their production in this country.

Specifically, my amendment would provide that foreign investors who began production in the United States between January 1, 1980, and December 31, 1982, would have 2 additional years to meet the domestic content requirements of the Ottinger substitute.

During the first model years, 1984, 1985, and 1986, manufacturers would be required to meet one-third of the Ottinger domestic content requirement. In 1987, Honda would have to meet the second year requirements of the Ottinger bill. In the following year and every year thereafter, the requirements would be set by the Secretary of Transportation between 33 and 50 percent. Fifty percent is the last year requirement of the Ottinger bill.

□ 1230

The Secretary of Transportation would make a determination whether it is more appropriate to have it be 33 or 50 percent because of the peculiar nature of the situation.

If we want to protect jobs for American autoworkers—and I believe every Member of this House wants to—telling Honda to pack it bags and build its cars elsewhere because it cannot meet the requirements put in the bill as it is now written is not the way to do that. I think we must address this problem.

Let us look at what this legislation is designed to do. It refers to the entire production and sales in this country of an automobile manufacturer. Honda is making at Marysville, Ohio, its Accord model, one of several models that are sold in this country.

If all of your models are made in this country, then obviously the legislation is applicable. But when only one model is made here that model must be mixed in with those models which come from elsewhere, and that means that Honda cannot meet the standards that are set even though their investment in Ohio for all production is $250 million—more than they have invested in 20 years aggregate anyplace else outside of Japan.

It seems to me that that investment and the suppliers that have moved in to make things in the United States that go into that Accord automobile indicate a clear decision on the part of the most independent of the Japanese automobile manufacturers to build in America, to build part of their model line here and hopefully in the future years other parts of their model line.

But the Accord is the highest priced automobile in their line. If you will, it is comparable to the Cadillac or the Imperial in the Chrysler line, or the Continental in the Ford line.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. The result is that when you make that model here and then also mix with the other cars that come in that are lowerpriced cars from abroad, you cannot meet the requirement.

The Honda Accord, at the beginning of its production, will be about 50 percent American domestic content. It hopes to go to 65 percent within the next few years but it took them almost 3 years to acquire the land and build the plant they are now in. So the requirement for expansion to make other models here could not be met if the language of the present legislation is left as it is.

In essence, this legislation has the same effect as import quotas because it raises prices of both domestic and imported cars. In fact, since the voluntary restrictions began, the price of foreign cars has jumped $1,900.

But this bill would have the added effect that it will put American autoworkers, as I said, out of their jobs, and those who are working directly for supplying the companies that came here to produce in the United States.

What we call for in this bill is that the first model year, 1984, the quota under the legislation would be 15.7 to 20 percent depending on the number of cars produced, and my legislation would provide for the domestic content to be 5.2 percent to 6.7 percent based on the sale of 470,000 to 600,000 cars.

In the next model year of 1985 it would be 33.3 percent to 40 percent under the present legislation.

I lower it to 11.1 percent to 13.3 percent for Honda on the basis of selling 500,000 to 600,000.

In the third model year of 1986, it would be 50 to 60 percent under the Ottinger amendment. I call for 16.6 percent to 20 percent under a scenario of 500,000 to 600,000 sales.

In the final year, model year 1987, it would be 50 percent under the language of the bill. We call for 33 percent under 500,000 cars sold by Honda and in the final year we call for 50 percent, as they do, except that we allow the possibility that the Secretary of Transportation might set a quota somewhere between 33 and 50 percent.

I do not think that is unreasonable, because what it does is focus Honda on the responsibility to meet the requirements in 5 years.

I cannot tell you what the impact on domestic manufacturers can be in this legislation because they did not testify very vigorously on the legislation. Most of them seemed to think that it was a poor idea.

As you know, some of their automobiles are manufactured in part abroad and brought back into this country for sale. Some of them are manufactured almost entirely abroad.

The people that will benefit under this legislation, however, are the small sales cars, the Subarus, those that do not sell much in the United States and therefore would fall outside of the purview of this legislation altogether and which are almost totally produced abroad.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

I reluctantly oppose this amendment first because I love and admire the gentleman from Ohio who has served with great distinction on our committee and in this body. We will miss him greatly in the next Congress.

Second, because I recognize that Honda has established itself in the United States and recognized its responsibility to the U.S. economy and workers. That is something that I think we ought to encourage.

Indeed, this legislation is designed to encourage Honda and other foreign manufacturers to establish facilities in the United States and put American workers back to work.

The reason I have to oppose this legislation, however, is that it is special interest legislation that would just

affect one motor company, the Honda Motor Co., and the legislation would have the effect of discriminating in favor of Honda against other foreign manufacturers like VW that established manufacturing in the United States earlier than Honda did, and against U.S. manufacturers who are under stringent restrictions with respect to the outsourcing of their manufacturers.

I will illustrate in a moment the degree to which that could take place.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I have full confidence in the gentleman's clear statement of what he intends as one of the objectives of this legislation, and that is to encourage foreign manufacturers to locate their plants in this country.

I have to say, however, that if the legislation does not accomplish that purpose, an amendment designed to accomplish that purpose can hardly be characterized fairly as special interest legislation.

The amendment that I have proposed is designed specifically to try to accomplish the purpose the gentleman says is his purpose in the general legislation.

All I am trying to do is correct the fact that the gentleman's formula does not meet the objective and, in fact, will cause the closing of a plant now employing 2,000 of my constituents and the constituents of other Members from Ohio.

Therefore, I think it is the responsibility of both of us to try to accomplish the purification of the legislation.

Mr. OTTINGER. I appreciate the gentleman's good intent. I have no question that he intends as he expresses.

But the effect of this legislation is to give the Honda Co., an advantage which other foreign manufacturers and all U.S. manufacturers would not enjoy. It does more than give Honda credit for having made an investment in Ohio in advance of the consideration of this legislation. What it does is to give the Honda Motor Co., a free ride in terms of domestic content requirement while all other companies, both foreign and domestic, must comply with the provisions of the bill.

This competitive edge will take place over the next 3 to 5 years when the auto business will be most competitive as all companies will try to recover from the current auto recession.

Then, at the end of the 5-year period, the amendment would give Honda a permanent break as compared to other manufacturers, a permanent break of up to almost 40 percent in local content, equivalent to thousands of jobs for U.S. workers.

I suppose that concerns me as much as anything.

In our discussions with the gentleman from Ohio we said if we do anything to recognize Honda's commitment we ought to at least assure Honda meets the same standards as other automobile manufacturers at the end of the period that is being addressed.

While that has been done to some extent, giving the Secretary discretion to negotiate with Honda, there is a limitation on there of 50 percent whereas, for instance, VW will have to meet a standard of 70 percent.

Mr. BROWN of Ohio. Would the gentleman yield again? If the gentleman would like to amend this to include VW we would be delighted. VW is not located in my district. It is located in the district of the gentleman from Pennsylvania (Mr. MURTHA), as I understand it.

We discussed the matter with his staff and they said they did not wish to participate in this amendment. So the amendment was drawn to address the problem created by Honda.

The gentleman from New York or the other gentleman from Pennsylvania or any other gentleman or gentlewoman on the floor is certainly free to amend the timeframe to include other manufacturers.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, the distinguished gentleman from New York (Mr. OTTINGER) has indicated that he wants to move this along. I am in no hurry as long as we discuss this thing. But I simply want to remind the gentleman of his challenge.

There may be other additional requests for time and I think both sides ought to have equal opportunity to discuss the issues.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio that the gentleman from New York (Mr. OTTINGER) have 2 additional minutes?

There was no objection.

The CHAIRMAN. The gentleman from New York Mr. (OTTINGER) is recognized for 2 additional minutes.

Mr. OTTINGER. There is just one other thing that I want to address and that is the gentleman said that Honda will pick up and leave a whole bunch of unemployed people in his district should this legislation pass.

I would like to say in my assessment of that is that it is a threat to try and defeat the legislation, which I can understand, but I think it is a totally idle threat.

The U.S. automobile market is by far the largest in the world. Honda and other foreign manufacturers now have huge investments in distribution and other facilities in the United States. They are not going to pick up and leave. I do not think the gentleman's fears are well founded though I understand his position.

If I were representing his district I would battle as hard to make sure that there was no risk involved as, in fact, he is doing.

If you look at some of the material Honda has prepared to show why it believes it cannot meet the requirements in the bill, it becomes clear exactly why this special waiver amendment should not be granted. In 1986, Honda plans to sell 600,000 cars in the United States. To be sure, 150,000 would be produced in Ohio with domestic content of 50 to 60 percent. But what about the other 450,000? This amendment would allow Honda to sell 450,000 vehicles in the United States with only a 3- to 5-percent domestic content. That will have a vast adverse impact on U.S. jobs.

In fact, under the terms of this amendment, Honda could sell up to 899,999 cars in the United States in model year 1986 with little more investment than Volkswagen has already made.

And how about the other companies that would have to meet the requirements in the bill and not have a special provision?

Chrysler, which in 1981 sold about 870,000 vehicles, would under the provisions of the bill have an 87-percent content ratio. If Honda sold that many cars, its requirement would be only 29 percent.

Volkswagen, which invested in the United States before Honda did, and in fact will produce 50,000 more cars than Honda at 70-percent domestic content—Honda will be only 50 to 60 percent—must meet a 35-percent content requirement. If Honda sells as many cars as VW in 1986, its requirement is only 13 percent.

And how about AMC/Renault? Even with the massive investment made by Renault in the United States—saving, in effect, AMC and thousands of U.S. jobs—they will be forced to meet a content ratio 50 percentage points higher than Honda would under this amendment.

This amendment would do more than give Honda Motor Co., credit for having invested in the United States. It would give away the store.

I urge yo to vote to defeat this amendment.

Mr. BROWN of Ohio. I would say to the gentleman that there are other foreign manufacturers who are at various stages of commitment in putting in factories in the United States. Without this kind of attention to the problem confronting Honda I am confident that they will not pursue that kind of investment and I am confident that the Honda operation at Marysville cannot be sustained with the kind of restrictions that are in the legislation now.

The problem is that the market issue here is what the legislation the gentleman has fathered focuses on, and that is all of the sales of the company. The production is for one of the cars in that line in this country, the Accord, and that is going to be up to 60- to 65-percent domestic made.

But when you bring in or average in the other sales in the line then you cannot meet that 50-percent requirement. You can continue to sell the Accord, of course, but you will be prohibited from selling the other automobiles.

My guess is that will not sustain a market for that manufacturer or any other manufacturer that wants to come in in the future.

Mr. OTTINGER. All they have to do to solve that problem is to start manufacturing in this country.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Mr. Chairman, I think we should strike a medal to the distinguished gentleman from Ohio (Mr. BROWN) because he has by this amendment again identified exactly what is wrong with this bill.

He has not identified all of the things that are wrong with this bill but he has correctly identified one big one. The bill will prevent American jobs from being created and it may cause the loss of American jobs that are currently held.

The gentleman's amendment is very parochial. It takes care of one foreign automobile company operating in one State.

What about the companies that want to build, or who are building, in Tennessee, or who are considering building everywhere? Those people ought to have the same kind of protection. What they should have from us is a guarantee of their ability to make cars in a free and unrestrained economy in which they can compete with other makers.

□ 1245

The other statement the gentleman from Ohio made was that he did not know what the effect was on the domestic manufacturers. I suspect that most people on the Energy and Commerce Committee do not know either. The committee did not ask the domestic manufacturers to come in and testify.

On the Ways and Means Committee we had hours of testimony from every domestic manufacturer save Chrysler, which had other problems at the moment. All of the manufacturers in this country, every one of them, said that this bill would have a deleterious effect on American jobs and would make their job selling domestically and internationally more difficult.

So, if you adopt the amendment offered by the gentleman from Ohio, you will simply save one little segment of our economy in our society. But, at the same time, you will condemn other American workers, especially those engaged in export-related jobs, to the possible loss of jobs.

Mr. Chairman, the bill is a wretched one. We have said that right along. This amendment proves it. Nothing proves it more clearly or more strongly than the amendment of the gentleman from Ohio. He has shown us exactly how many jobs will be lost in the city of Marysville, Ohio. Marysville, Ohio, is only one place in the country where they make cars. We will lose jobs everywhere.

I urge the defeat of the Brown amendment so that the bill will be left in its original pristine state. It's ugly intent will be better observed without amendments.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished sponsor of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman's flattery, or so I took it, at the wisdom of the amendment.

Now I would appreciate the gentleman's support, because it seems to me that this bill, passed without the precedent of this amendment in it, makes very bad legislative history for future consideration by this Congress or the next.

Now, I think both the gentleman from Minnesota and I know—or at least I think I know; I am not sure what he knows—that this bill is very unlikely to become law in this Congress. But it may not be unlikely for serious consideration in the next. And I would hope that when people go back and look at it that we do not have a precedent of people at least on this side of the aisle voting against an amendment like this which clearly does try to address a problem in the basic legislation.

Mr. FRENZEL. I thank the gentleman for clarifying.

I would further say that when a leaky innertube has serveral hundred leaks and many cuts and slashes, you cannot improve it by putting a tiny patch on one of the holes in that innertube. This is a leaky vessel which should be allowed to sink to the bottom of the pond.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as one of the original cosponors of this legislation, I find the position of my colleague, the gentleman from New York (Mr. OTTINGER) who also opposed very vigorously a broader amendment along the same line as the amendment of the gentleman from Ohio (Mr. BROWN) that I offered last week when we were discussing this legislation, very hard to understand. He seems to be opposing the basic thrust of this legislation, as I understand it, in fact that thrust was one of the reasons why I became a cosponsor, this basic purpose was illustrated in the paper this morning, a big full page ad, I think it was in the Washington Post. It had a big Datsun with a sign on it "made in the U.S.A." And the thrust of that full page ad, put in by the United Automobile Workers, was that this bill we were going to be deliberating today was going to create jobs for American automobile workers by helping to produce cars of Japanese design and other foreign design.

Yet the gentleman from New York (Mr. OTTINGER) is opposing, in opposing the amendment of the gentleman from Ohio, the very thing that the UAW says this legislation was designed to do. The gentleman from New York and the gentleman from New Jersey (Mr. FLORIO) were very bitterly opposed to the amendment that I offered which would have provided some flexibility so that this legislation would not prevent foreign companies from either moving in or, even worse, as the gentleman from Ohio has indicated, encouraging those that are already providing jobs for American workers to move back to Japan.

Somebody ought to get straight on this thing. Are we supporting the legislation that the automobile workers have recommended, or are we supporting the legislation of the gentleman from New York (Mr. OTTINGER) who apparently is not interested in whether American workers go to work building foreign cars, or continue working, whether it is Hondas, Volkswagens, Toyotas, or Datsun trucks down in Tennessee.

It seems to me that we ought to get this matter cleared up. Because if every attempt to try to protect workers who are either presently employed by foreign automobile companies or are likely to be employed by foreign automobile companies, then this legislation is extremely misleading in comparison to the intent of the newspaper ad in the Washington Post.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STRATTTON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think we ought to look at the precedent of what this country did several years ago, before there was U.S. automobile manufacturing in other places in the world. Then we put Ford production in Britain and the European market, which helped strengthen the American manufacture and benefit the American consumer because it helped strengthen the company that made the cars and reduce the cost of products distributed in this country and helped lower the prices to consumers.

Now, in effect, if we are going to say to a foreign manufacture that you cannot even produce the cars in this country that you may wish to sell here, then we really are drawing that protectionist line very tightly around this country.

I am confident that you will not see any foreign manufacturer try to put a plant in this country if this bill becomes law as is. What they will do, instead, is reduce the number of automobiles they are selling in the United States by some very tricky methods—establishment of separate companies, for example—to keep under that 100,000-car limit so that they can sell those cars without restriction as to the content they have. This legislation, as drawn, has no limitation on content of cars that sell under 100,000 in the U.S. market.

Now, I have to say that I cannot tell you whether Volkswagen is going to be adversely affected by this bill or not. I cannot even tell you whether General Motors is going to be adversely affected by the legislation as it is drawn. What I am trying to do in my amendment is to accomplish what the gentleman from New York (Mr. OTTINGER) and the other makers of the bill say they want, and that is: If you are going to sell in the United States, make in the United States.

Why we cannot have an amendment to try to accomplish that purpose is beyond me. I understand why the gentleman from Minnesota does not want it. He does not want anything in the way of improvement in this legislation because he opposes the bill under any circumstance. But the legislation is designed to send a message to foreign manufacturers who have invaded our market without being willing to manufacture their products in our market or let us sell in theirs. That message, without this amendment to allow manufacturing in the United States is going to be a very bad message, in my opinion.

Mr. STRATTON. I think the gentleman is making a very good comment. I cannot understand why the UAW would spend thousands of dollars for a full-page ad unless they really want jobs in foreign auto plants of companies who were either located here in the United States now or were likely to move in later on, such as Toyota.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to remind Members again, as we attempted to do last week, that this amendment does not make a bad bill any better. We would remind the Members of the tremendous workload that is going to be required in carrying out the mandates under this act, and that is of verifying the domestic content. That particular task is going to be burdensome, it is going to be most intrusive, and it is going to give enormous powers to the Government, to the Department of Transportation, to rummage through the books and records of not just the automobile manufacturers but the tens of thousands of suppliers to that industry. It is going to require the tracing of the sources of all materials, all component parts that go into an automobile.

Again, to repeat: This bill is not dealing with just the dozen or so automobile manufacturers, but the tens of thousands of firms, both large and small, that supply parts to the automobile industry.

These investigators would have to go in and take a look at production records, the purchasing records, the sales records. And we are talking about every one of the manufacturers and suppliers to this industry.

The DOT, in short, would be empowered here to pry into these records. It is a program that would give enormous power to the Federal Government at a time when we have been trying our best to deregulate. The gentleman's amendment does nothing to cure that problem.

Mr. Chairman, I would urge defeat of this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it greatly pains me to oppose this amendment, as it always pains me to oppose amendments offered by my old friend from Ohio. And before I begin my remarks—I will not yield to the gentleman at this time, because I want to say something nice about him and I do not want to be interrupted—I want to say that I served for a long time with the gentleman from Ohio. Our dads served together in this body. He is very dear to me and served as senior ranking minority member on the old Subcommittee on Energy and Power when I had the honor of being chairman of that subcommittee. I find him to be a man of rare ability, a wonderful friend, an absolutely savage opponent, and a thoroughly honorable and distinguished Member of this body. I am proud of our friendship, and for that reason I am all the more distressed that I must oppose this amendment.

The gentleman from Ohio puts forward an amendment which sounds rather good. I think the first question is: What does the amendment really do?

First of all, it confers, after model year 1987, by its clear language, discretion on the Secretary of Transportation to fix figures for content of Honda-manufactured automobiles between 40 percent and 50 percent, but not less than the levels achieved in model year 1987. That gives broad discretion which can have consequences that no one in this Chamber at this time can predict.

Now, why does Honda want this amendment?

First of all, it is a special rule for Honda, and I cannot blame Honda for being desirous of achieving that particular goal. Certainly were I to serve a district where Honda were established, I think I probably would be doing something very similar to that which the gentleman from Ohio is doing. But I would observe that any Member who represents a district where automobiles are manufactured by any other company must with great vigor oppose this proposal.

Now, let us look at what Honda would get under this particular proposal. Honda essentially gets a free ride in terms of domestic content requirement, while all other companies, both foreign and domestic, must comply with the provisions of the bill. This would give Honda a competitive edge over the next 3 to 5 years when the auto industry is going to be extremely competitive and when the industry and the country will be trying to recover from the current recession which most vigorously strikes at the auto industry. At the end of the 5 years, Honda would get a permanent break, as opposed to other manufacturers of up to 40 percent.

Now, this occurs by reason of some interesting circumstances. Honda proposes in 1986 to sell 600,000 cars in the United States, according to the figures that my good friend from Ohio has submitted to the Rules Committee and has made available to the House.

Now, admittedly 150,000 would be produced in Ohio, with a domestic content of 50 percent to 60 percent. That would be good. But the amendment would also allow Honda to sell another 450,000 vehicles in the United States, with only a 3 percent to 5 percent domestic content. This would clearly have an adverse effect upon U.S. jobs.

Now, to see the practical consequences of this amendment, let us address what would really happen. Honda could sell up to 899,000 cars in the United States in model year 1986 with little more investment than Volkswagen has already made in this country, and Volkswagen would be tied to a much higher domestic content standard than would Honda.

Let us look a little further and see what other companies would find themselves faced with under the amendment offered by my dear friend from Ohio.

Chrysler, what in 1981 sold 870,000 vehicles, under the provisions of this bill would have to have an 87-percent content ratio. If Honda sold that many cars—and it could sell that many cars and more—its requirement would be only 29 percent.

□ 1300

AMC Renault, after a massive investment made in this country saving in effect AMC and thousands of U.S. jobs, will be forced to meet a content ratio 50 percentage points higher than Honda would under the terms of this amendment.

Volkswagen, which invested in the United States before Honda, and, in fact, will produce 50,000 more cars in the United States than Honda at a 70-percent content level, must meet a 35-percent content requirement if it sells 350,000 cars. Honda will only have a 50- to 60-percent content level in the cars it produces.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. However, if Honda sells as many cars as Volkswagen in 1986 its requirement will only be 13 percent. I think this is a well-meaning amendment, but regrettably it is an unfair amendment and confers an unfair advantage on Honda.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, the fact of the matter is that Honda now sells 350,000 of its cars, not its Accords, not the cars made in this country, 350,000 of all of its Hondas, down from 370,000, and its ambition is to go to 500,000 by 1988. That is not I think an excessive increase. Nor is it going to be possible for them to meet the requirements without getting to that amount of sales in this country.

Volkswagen now is under the margin as I understand it of the legislation as it is drawn. They would not qualify. And if the deutsche mark goes down, they will also not be able to meet the requirements of the legislation as drawn. That is not my problem. That is somebody else's problem.

Mr. DINGELL. I will observe Volkswagen does meet the requirements of the legislation, not only currently but according to the projections as I understand them.

Mr. BROWN of Ohio. The testimony by Volkswagen I think would not bear that out.

Mr. DINGELL. We have checked this out with care and that is our appreciation of the matter. I would also observe one thing. I think Honda is on the road toward becoming a good citizen. I think they can do so either under the bill as drawn or under the amendment. But I see no reason why the amendment should be drawn so as to confer the kind of advantage on Honda over struggling domestic producers, and which would have the unfair consequences to which I have alluded.

I do not believe that if this amendment is rejected that Honda will refuse to go forward because of the size and the desirability of the American automobile market.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would just like to inquire of the minority—we have a lot of amendments to consider. I want to make sure they all get fair consideration.

Would the minority at this point consider a limitation on this amendment?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Florida.

Mr. GIBBONS. I have not had a chance to even tell the Members about the Volkswagen testimony. I have it right here in the record.

Mr. OTTINGER. Mr. Chairman, could we get agreement to limit time on this amendment and all amendments thereto to 1:20 p.m.?

Mr. BROWN of Ohio. Mr. Chairman, is that a unanimous-consent request?

Mr. OTTINGER. Yes.

Mr. BROWN of Ohio. I object, Mr. Chairman.

Mr. GORE. Mr. Chairman, I would yield for the unanimous-consent request.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto end at 1:30.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I wonder if there are any Members in this Chamber at this point who contemplate offering an amendment to the amendment I have offered.

Mr. CHAIRMAN. The Chair has no knowledge.

Mr. OTTINGER. I have no knowledge of any.

Mr. BROWN of Ohio. The remaining 25 minutes would be on this amendment, correct?

The CHAIRMAN. Or any amendments thereto.

Mr. BROWN of Ohio. On this amendment?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I rise in strong opposition to this amendment. I represent the district in Tennessee where the Nissan truck facility is being constructed and I fail to see why we should adopt an amendment to exempt Honda from the provisions of this bill and leave all of the other foreign manufacturers covered.

Now, if this is good legislation and the quotas that it mandates are reasonable and attainable, then we do not need this amendment to exempt the Honda plant in Marysville, Ohio, and we would not need an amendment to exempt the Nissan plant in Tennessee.

On the other hand, it seems to me this amendment makes clear that there exist very real problems with the legislation as a whole. I understand the motivations for the legislation, just as I understand the motivations for the amendment. But it is not a solution to the imbalance of the trade with Japan. Nor is it a solution to the basic problems facing the U.S. automobile industry.

So I would urge my colleagues to oppose this amendment and to oppose the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to explain to the gentleman as I tried to explain to the gentleman from Minnesota, my friend (Mr. FRENZEL) who does not want this bill under any circumstances and therefore does not want it improved, that the passage of this bill into law is not going to occur in this session because the Senate will not address it and the President will not sign it. That is what I understand to be the case.

I think everybody within the sound of my voice understands that. But it is a very bad precedent for your friends as Nissan who are building the plant in the gentleman's area to see the House consider a bill that does not consider their circumstances, because I can tell the gentleman from Tennessee that they will not proceed with the construction of that plant if there is

no consideration for the prospect of being able to develop the market. The car made here, if it is of 100-percent domestic content, will not meet the content requirements of this legislation.

Mr. GORE. Reclaiming my time, because it is limited, I am uncomfortable proceeding on the assumption that what we do here has no meaning and will not reach any conclusive result. I believe we must always legislate as if we are passing a proposed law to be sent to the President.

I understand what the gentleman is saying, but I think that the gentleman's amendment just highlights the inequities that would result if it was adopted and if the bill was adopted.

Mr. BROWN of Ohio. And the amendment was proposed because I want to see this bill improved so that it is not a bad precedent for the future.

Mr. GORE. I would urge a "no" vote on the amendment.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 40 seconds each.

(By unanimous consent, Mr. WALKER yielded his time to Mr. BROWN of Ohio.)

Mr. BROWN of Ohio. Mr. Chairman, to be taken now or later?

The CHAIRMAN. The gentleman has the right to speak at the end.

Mr. BROWN of Ohio. I prefer to aggregate.

(By unanimous consent, Messrs. CONYERS, OTTINGER, and DINGELL yielded their time to Ms. MIKULSKI.)

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to this amendment because it defeats the very purpose of this bill. No. 1, it discourages foreign manufacturers from locating in the United States and penalizes those who already have located in the United States by this sweetheart deal for Honda.

The gentleman from Michigan (Mr. DINGELL) has already very clearly outlined the statistics that show how Renault would be penalized, how Volkswagen would be penalized, and how domestic manufacturers would be penalized.

As I indicate, it would penalize those other foreign manufacturers who have located in the United States. Penalty that shows that this is a particular bill designed to help Honda is an amendment which includes a waiver that would go into effect in 1988 which would grant the Secretary of Transportation a waiver ability to exempt only Honda from the domestic content bill. And then they would, if they sold 899,000 cars, only have to have a 50-percent domestic content when all American manufacturers would have to have an 89-percent content and all foreign relocatees would have 89 percent.

Now, if that is not a special interest amendment, I do not know what is.

We want to thank Honda for building here in the United States. We want to thank Volkswagen for coming to Pennsylvania. I hope that there is a Datsun that comes to my community called Dundalk. We would like to have that. If the gentleman wants to provide incentives for foreign manufacturers to locate here, then he should design legislation to do so.

This amendment would destroy the intent of the bill, would harm American manfacturers, and at the same time penalize those good-guy foreign manufacturers who have already relocated here.

For that reason, the amendment should be defeated and we should find other alternatives to encourage that type of investment here.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I referred earlier in my remarks to an ad that appeared in the Washington Post this morning, "Made in the U.S.A., Datsun." And here is what it says:

> Building cars in America means jobs. Content is not protectionism in disguise, it is jobs legislation. It would keep jobs here with U.S. automakers and it would create new jobs by encouraging foreign based firms to produce here. A content law would simply require some of those cars to be made here with American parts which would put thousands of Americans to work. We estimate a content law would save or create more than a million jobs by the time it is fully phased in.

If the House, managers of this bill are not going to allow a company that is just beginning to build foreign cars in the United States and to employ some of these 1 million workers, how is this bill going to create all these jobs?

I think the attitude of the House managers of the bill is contrary to this particular advertisement expressing the view of the UAW.

□ 1315

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. I thank the chairman.

Mr. Chairman, I am not sure if this issue is following me or I am following it. I was in the State legislature in Columbus, Ohio, when Honda was talking about opening a plant in our State. They had their hand out then and they have got it out again today with this amendment. They asked us to pass special tax breaks for them, tax breaks to deal with their inventories, to deal with the method and manner in which their property was going to be valued for tax purposes. They saked for special appropriations and other considerations to facilitate their move. The Ohio taxpayers have already supported Honda's activities but now they are back again for more.

Today we find them again with their hand out with a sweetheart amendment that is only designed to further displace the competitive advantage that they may find themselves in dealing with other American auto companies which my colleague from Michigan (Mr. DINGELL) so eloquently stated.

This is truly a sweetheart amendment. I think it will place other American auto companies in a disadvantageous position.

Let us have all companies that deal in the automotive arena in this country play by the same rules, rules adopted by the American League, I might add, so that each of us who play on that baseball field know exactly what the rules are, and not, as this amendment envisions encouraging other companies to have an unfair competitive advantage and certainly not to have the same people back at the public through with their hands out once again.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I rise in strong opposition to the amendment.

I think, Mr. Chairman, it is important to make note that the issue concerning Volkswagen and its requirements under this legislation are that it is very well covered. It comes within 15 percent of the minimum requirements.

I would invite Members to read the committee testimony before the Committee on Ways and Means, pages 345 and 346 respectively. Volkswagen is really addressing a potential product mix issue there. They have a Sterling Heights plant in Michigan that will turn out power trains hopefully providing parts which would bring them well within future compliance requirements. Thus this legislation would only encourage an investment in America kind of approach. Volkswagen is covered and in fact would be ecouraged by this bill to open that plant and to sell a product mix in this country that would include more American manufactured automobiles.

For that reason, I very strongly oppose the amendment and ask that all Members do likewise.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, trying to patch up this bill is like trying to put a band-aid on a rattlesnake. There is not much way you can improve a rattlesnake and there is no way you can improve this bill.

It could stand one good amendment and that is to strike out the enacting clause, but I am not going to do that. I do not want to take up the time of the House.

If you will read the Volkswagen testimony on page 344, you will notice that the head of Volkswagen U.S.A. said, in effect, that he would not have come to this country if he had known this bill was pending. Then he went on to say:

For example, if the Deutsche mark were to strengthen against the dollar as it has in the past, we could very easily be out of compliance.

In other words, he would have to go out of business.

Then he goes on to say:

Suppose we sought to increase the demand for a particular model to a degree that would justify U.S. production. This would be done through imports until the volume reached the level where economies of scale would justify production—

And I must say in the United States.

Yet, the bill would hold us to our current level of imports, thereby restricting our long-range goal of expanding U.S. production capacity.

The president of Volkswagen U.S.A. just says:

You know, we wouldn't have come had this turkey been hanging around, this rattlesnake been hanging around.

The same thing for Honda and the same thing for Datsun and the same thing for everybody else that knows what they are doing.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

(By unanimous consent, Mr. BROYHILL yielded his time to Mr. GIBBONS.)

The CHAIRMAN. The gentleman from Florida (Mr. GIBBONS) is recognized for 1 additional minute.

Mr. GIBBONS. I have a detailed answer for the ad that the gentleman from New York (Mr. STRATTON) and the gentleman from Michigan just read. It is preposterous. I am sorry they put Doug Fraser's name on it because it really slanders a very fine gentleman.

Every piece of that ad is fallacious. I have detailed annotations that I will put into the RECORD later if I ever get any time and go through it point by point on every point that is made on that ad and refute it.

The argument is specious and it does not deserve a fine label on it like Doug Fraser's name at the bottom. I do not know whether it was signed there or printed there, but it tends to rely upon that gentleman's great credibility, as I say, the smartest man in American autos.

It is a fallacious ad and a fallacious argument. If we can just get over this limitation of time on debate syndrome that seems to have taken over here and then have all the Members jump up at one time and take up the time, I will put it in the RECORD.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I was reading from the same testimony and noted that the Volkswagen representative indicated that a currency fluctuation only half as large as that which has occurred in the last 2 years would knock them out of compliance. They are marginally in compliance now. So much the help we are giving Volkswagen. They do not want it and neither should you.

Volkswagen says that under this law it would not build new plants and will not be in a hurry to reemploy workers who are laid off now. That is about as damning an indictment of this bill as you can get from any individual company.

This amendment proves that this bill costs American jobs. Worse, it proves that the sponsors are some kind of cannibals because they are willing to knock out jobs in their own union, the United Autoworkers.

It is the most clear example that has been presented to this House yet of how this bill is going to hurt America.

I urge that the amendment be defeated and that the bill be defeated also.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 2 minutes.

Mr. BROWN of Ohio. I thank the Chair.

Mr. Chairman, I would like to quote also from the testimony of the hearings before the Subcommittee on Trade of the Committee on Ways and Means were in response to the question of the gentleman from Pennsylvania (Mr. BAILEY), Mr. Hutchinson had this to say:

It would have a very favorable impact were the plant to be opened. Unfortunately, we are in the position now that our plant in Pennsylvania is running at only between 40 and 60 percent of capacity.

Our management has in effect put the Sterling Heights facility in mothballs, because obviously if we cannot run one plant at capacity, we certainly cannot look to another. We do not see the demand for our product in the next year or so such that would justify pressing on with the Sterling Heights facility.

Now, that is the problem that we have. In spite of the legislation that is proposed here, the very companies that would like to locate in this country for their production are not very optimistic if this legislation is passed without some modification.

Nissan has made a similar investment to that of Honda in their light truck factory in Tennessee; but in their testimony Nissan seriously doubted whether it would have made the investment if local content laws has been on the books. That would have meant a loss or will mean a loss of 2,600 jobs in Tennessee.

Now, that is the reason we ought to at least make an effort to amend this bill. It may become law, but probably will not become law in this session: but this will be a precedent certainly for what we will do in the future if this issue is addressed in the next Congress. We certainly ought to try to address the problem that the content requirements now in the bill present to somebody who is already here; namely Honda.

Now, the ad that was quoted by the gentleman from New York says:

We are already building VW's in Pennsylvania and Renaults in Wisconsin. And American workers soon will be building Hondas in Ohio and Nissans in Nashville.

They will never be building those Datsuns in Detroit or Dundee, or wherever that is, BARBARA, if this legislation does not recognize that there is going to have to be some adjustment for companies that first build a plant for one car, and one model, rather than a plant for their full model line. They build a plant for one model and if they cannot make that go, they will never build that second plant for the other model lines, and that is what we are trying to address in this amendment.

I urge my colleagues, not simply because they are opposed to the whole piece of legislation or not simply because they do not see the merit for their own operation, not to vote against this amendment for that purpose.

Let us at least try to correct the legislation and then to vote as you will on the legislation.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) to conclude debate.

Mr. OTTINGER. Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the gentleman from New York.

I think it is very important that the Members not be confused, that the record on Volkswagen be explained completely.

The statement that was made before the Committee on Ways and Means by Mr. Hutchinson of Volkswagen of America was, of course, under instructions given him by the management of the company in Germany.

On page 345 of the testimony, we developed a colloquy after his statement, and I think it is very important for me to read a quotation to the committee. This is my question to Phil Hutchinson:

In short, what it means is that you are under, significantly under, about 15 percent when you look at the percentage relationship between 34 and 40 under the minimum requirement in the bill today. You don't dispute those figures, do you?

Mr. HUTCHINSON. No, sir. The way that we figure our content, we have to average the content that we have in our U.S.-produced Rabbits that are built *in your district*. We

have about between 70 and 75 percent content in those vehicles, and we average that content with the cars that we import.

To go on to page 346 in the testimony, and I raised questions concerning that Sterling Heights, Mich., plant. The gentleman from Ohio (Mr. PEASE) had joined in. I said, asking questions about the Sterling Heights plant, in response to Phil Hutchinson, I said:

You won't have to, if the gentleman will let me finish. I would be very happy to complete it for you.

On that plant you and I had some private meetings when we discussed, if you remember, some of the issues surrounding the location of the plant.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that the gentleman may have 1 additional minute.

The CHAIRMAN. The unanimous consent request was to 1:30 and there are 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, the 2 minutes are not spoken for, is that correct?

The CHAIRMAN. That is correct.

Mr. BROWN of Ohio. Then, Mr. Chairman, it seems to me appropriate for the Chair to split the 2 minutes between the proponents and the opponents.

The CHAIRMAN. The time will be divided between the gentleman from Ohio and the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I yield the remaining time I have to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. I went on to say:

Would you add to your response concerning that plant and when it comes into operation, any figures that you might have or any work that you might have on the domestic content impact that it would have on your fleet average?

Mr. HUTCHINSON. It would have a very favorable impact were the plant to be opened.

I will go back to the testimony offered by the gentleman from Florida. It is proof positive. This legislation would encourage Volkswagen to open that Sterling Heights plant, increasing the employment of U.S. workers. It would be very positive in that regard and I think it stands as excellent testimony to the need for this bill and the reason to defeat this amendment.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman from Pennsylvania.

I would say that the amendment, while well intentioned, would give a special advantage to the Honda Co. It would be discriminatory against U.S. companies and other companies, including foreign companies, that have already invested here.

I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Well, Mr. Chairman, I hate to take the time to read again what I read before, but I want to keep the gentleman from Pennsylvania (Mr. BAILEY) at least on the record correctly.

The line that followed what he just said was that, "Our management has in effect put the Sterling Heights facility in mothballs."

Now, that is the point of the whole issue, I think, whether or not we are going to have a piece of legislation that has unrealistic quotas set or whether or not we are going to try to address a problem that needs to be addressed.

It seems to me that there ought to be some message sent to some of our foreign competitors that they ought to compete fairly with us in this country and allow us to compete fairly with them abroad.

I frankly think that it might benefit Mr. Brock in some of his trade negotiations to see this Congress look seriously at domestic content legislation.

On the other hand, I subscribe along with that sentiment to Mr. Fraser's suggestion before the Joint Economic Committee that we ought to encourage foreign manufacturers to put their plants in this country to provide jobs.

What we have in this bill will absolutely discourage existing jobs in this country.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The amendment was rejected.

□ 1330

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 3, strike out lines 3 through 8 and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "Smoot-Hawley Trade Barriers Act of 1982."

SEC. 2. PURPOSE

The purpose of this Act is to reduce competition in the automobile industry, protect jobs in one industry to the detriment of jobs in other industries, and to increase the price of automobiles to consumers.

Mr. DANNEMEYER. Mr. Chairman, philosophers of all stripes throughout the history of our civilization have argued the question: What is the basic nature of man? Is it good or is it evil?

We are not here to argue that very profound question; but we are here today to argue the question of whether or not protectionism is good for a nation and the industries of this Nation, and is protectionism good for the commerce of the world?

This question also confounded one of the great English philosophers, John Stuart Mill, who at one time in his life vacillated on the answer to this very profound question because in 1866 he indicated a modest amount of support for the concept of protectionism for the industries of a particular country. But then he changed his mind, and some 5 years later came out with this very profound statement:

I hold every form of what is called protection to be an employment of the powers of government to tax the many in the intention of promoting the pecuniary gains of a few.

I think his latter position was the correct one.

This question also has plagued people in positions of leadership in this country.

Back in 1930, the President of the United States, a man named Herbert Hoover, was asked by a Congress to sign a bill that has become infamous in American history called the Smoot-Hawley Tariff Act. Congress passed that bill in 1930 in order to give life to the desire of American agriculture to be protected from imports of foreign agricultural products.

President Hoover, in his wisdom, decided to sign this bill, and this is what he said in 1930:

There are certain industries which cannot now successfully compete with foreign products because of lower foreign wages and a lower cost of living abroad, and we pledge the next Republican Congress to an examination and, where necessary, a revision of these schedules to the end that the American labor in these industries may again command the home market, maintain its standard of living and may count upon steady employment in its accustomed field.

Well, what do you know? After the act was adopted in 1930, this is what happened to international trade in the world: Under the impact of higher tariffs and growing nontariff restrictions, world trade declined precipitously. Between 1929 and 1939, the value of world trade dropped from $66.6 billion to $26.3 billion, while total U.S. trade plunged from $9.5 billion to only $2.9 billion.

After the Smoot-Hawley Tariff Act was adopted in 1930, there was an outburst of tariff activity in other countries in the way of reprisal; extensive increases in duties were made almost immediately by Canada, Cuba, Mexico, France, Italy, and Spain.

During 1930, general tariff increases were announced by India, Peru, Argentina, Brazil, China, and Lithuania.

If we in this House want to assure that there will be a downturn in international trade in this world, we can adopt this legislation, and if that is our purpose and intent, then I think this amendment that has been offered by the gentleman from California is most apt because in 1982 we will have adopted a modern-era Smoot-Hawley Tariff Act, 52 years after the original.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman to engage in a little more discussion with me about the implications raised by his aptly renaming this bill the Smoot-Hawley Tariff Act of 1982, so I would hope that we could get a little bit more time. I do not want to trespass on the desire of both sides of the aisle to move expeditiously, but I have been waiting a long time to get a chance, and I know the gentleman from California has.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

(On request of Mr. KEMP and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 4 additional minutes.)

Mr. KEMP. Mr. Chairman, will the gentleman yield further to me?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding further to me.

Mr. Chairman, there is no little irony in the fact that it was the Republican Party in 1928, led by its candidate Herbert Hoover, who built into its platform what became the Smoot-Hawley Tariff Act of 1930, which was a one-third, as I understand it, increase in tariffs, as the gentleman pointed out.

Interestingly, in that Congress after Hoover's election, and it was a Republican Congress, the debate over Smoot-Hawley was not unlike the debate over what we are going through today: There were amendments all over the lot; and the Smoot-Hawley bill was not going anywhere until the Northeastern Members of the Congress joined in and decided to do for the Northeastern manufacturing what the Republican Midwestern Members were trying to do for agriculture.

If you go back and look at the stock market crash of 1929, there is an inextricable link, I believe, between the debate on the amendments as they came to the floor and were passed in 1929 and 1930, and the crash of the stock and equity values, forecasting the drop in world trade and the contraction of the economy, which followed. My friend, the gentleman from California, is doing the House a great service, indeed he is doing the people of the country a great service, by bringing this to their attention. I want to remind my colleague that the bill was signed in 1930 but its most important provisions were passed in October of 1929. Indeed, they passed at the very same time that the market crashed.

There are people, and I am one of them, who believe that the drop in equity value preceding the drop in trade was a response to the tremendous increase in tariffs not only on agriculture, but on manufacturing. Is it any coincidence that the stock market has dropped 30 points only yesterday and today?

I would say parenthetically that when the Congress passed the Smoot-Hawley Tariff Act, almost every reputable economist, every finance minister in the world, begged President Hoover not to sign the bill, and when he said he might not sign it, the stock market recovered about 80 percent of its value from October of 1929 and that crash, on into June of 1930, and then Hoover signed it and the stock market crash of June 1930 was almost as great as the stock market crash of 1929.

Within weeks, I would say to my friend, the gentleman from California, every single nation in Europe raised its tariffs to match the tariffs of the United States, and the world contraction resulted. We went into a terrible deficit, taxes were raised by President Hoover and the Congress, monetary policy tightened in response to the money panic, and we went into the terrible depression.

Why do I bring it up? To demonstrate by history that this is not a jobs bill; this is going to destroy jobs.

It is not easy for me to speak on this issue. But I think it is important that we establish some legislative history here because it is going to come back in the next Congress.

I represent an auto town, a steel town, Buffalo, N.Y. We have high unemployment. My heart goes out to the people who have had their lives and their families and their economic fortunes dislocated by the terrible economic consequences of high interest rates, high unemployment, and an economic downturn.

There is a depression in autos, as there is in steel and housing. But what caused it? Not international trade.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has again expired.

(On request of Mr. KEMP and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. KEMP. There is an absolute depression in those industries. But for this very reason, the answer is not to get into a zero sum war in trade against our partners which would spread the depression. I say "partners" advisedly, because some of them are not partners. We want fair trade, to be sure, and we should be working to that end. But the only cure for the auto industry and the steel industry and agriculture and small business is to increase the demand for autos, steel, grain, with expansion.

But by passing this bill, by not learning the lessons of history, by not listening to the gentleman from California, we put the country, the world, in grave danger. In the Republican Party, though some of its members are going to vote for this bill, most of us, I think, are wisely opposed to it because we learned our lessons from 1930. It is now many of the liberal Members of the Congress, and I do not say that pejoratively, but it is the liberal Members of the Congress who are in danger of abandoning their heritage and becoming protectionists.

If John F. Kennedy were here today, he would be opposed to the bill. It was Hoover who was in favor of it. The first and greatest round of tariff reductions came in the Kennedy administration. Kennedy created GATT, and we owe him our thanks. Trade expanded, we had foreign money at stable exchange rates, and that did more for automobiles, that did more for housing, and that did more for basic industry in the country than all of the quick fixes in the world.

I think it would be a terrible mistake if the Congress took this action. I say it reluctantly because I know and I identify with all the people who are suffering, but I say it firmly, because we must reduce pain, not increase it. I just want to compliment the gentleman from California and compliment the gentleman from Florida who has, I think, given us a lesson by bringing up Smoot-Hawley, about what happens to the world when you start to wage the commerical equivalent of war. It's always the innocent who get hurt. It leads to the loss of jobs; it does not lead to the protection of jobs.

I compliment the gentleman from California for having the courage of his convictions.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has again expired.

(On request of Mr. GIBBONS and by uanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York and the gentleman from California have pointed out very graphically what happened to this country the last time we made this serious mistake.

I would like to add a sequel to it because I was fortunate enough to live during that time.

Not only did our economy collapse, not only did all the countries around the world retaliate against us and their economies collapsed, all world trade collapsed. It was down to about one-tenth of what it had been within 2 years. Attempts to revive it failed be-

cause of economic nationalism in all of our countries.

We tried to get together shortly after that in the economic conference. That failed because we were all looking at our problems and not realizing that our problems were worldwide and not just limited to that.

At the same time, Germany collapsed economically; Japan went through a terrible time economically. Those countries turned very radical. They started practicing radical nationalism. We all know what happened from that; The rise of the Fascists in Europe and the rise of militarists in Japan.

Twenty million Russians died as a result of that. I cannot tell you how many Americans died as a result of it. In my college class, the decimation was about 30 percent dead, all as a result of a well-intended act that threw this country into a tailspin and threw the world into a tailspin. This is the same kind of thing.

I do not want to cut off debate, because I do not think there is a more important piece of legislation that this Congress has considered that affects our economy and affects world peace more than this particular piece of legislation.

This is a terrible indictment of the American system. It is aggression against the American consumer by us unilaterally telling them for a nonharmful product that he cannot spend his money on it. Never have we ever done that to Americans before. At least the Smoot-Hawley just put up economic barriers that you could jump over, you could get the price right; but this is a "You cannot have it, you stupid American taxpayers who earn less money than Members of Congress and have already paid your taxes, you cannot spend your money the way you want to."

□ 1345

How tyrannical can we be and how great are the consequences of this?

The CHAIRMAN. Does the gentleman from New York persist in his point of order?

Mr. OTTINGER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) for 5 minutes.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment. I do not think this is a serious amendment. I understand it is a symbolic amendment, but the symbolism is wrong and it would be very detrimental to this body.

It is wrong because there is no tariff in this act. We do not prevent foreign manufacturers from selling here. All we do is say, "If you sell here, you have got to make a certain amount of the manufactures and parts here."

Second, it is unfortunate because if they were adopted, then the act would be interpreted as being a protectionist piece of legislation, which it is not.

The third point I would make is that a war has already been declared, and indeed is being waged against the United States by Japan and European countries not only in automobiles, but in many other products. I do not know how we are going to roll that back, really going to get to the free trade which the opponents desire, unless it is made clear that Congress is going to stand up against the kind of barriers that have been placed against U.S. products. This is a step in the right direction, and I think will help us alleviate barriers to world trade rather than increase them.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I think my good friend, my colleague from California, offers an amendment, and I am sure he seeks to make a point, but it is very plain to me that the gentleman from California not only offers the amendment for a symbolic purpose, but that he in fact does not want the amendment to pass.

Now, why? First of all, he defines this as a Smoot-Hawley Barriers Act of 1982. Second, he sets forth a statement of purpose. Those two devices in the bill, if the amendment offered by the gentleman from California is adopted—and I am sure he offers it in the best good faith—will be used in interpreting how this bill will be administered by the agencies downtown. If the gentleman really wants to impose trade barriers and to have this interpreted as a bill which is going to cause a decline in trade, a decline in jobs, a decline in international business activity, adoption of this amendment is a splendid way to do it.

I listened also to some comments made about the number of countries that had immediately imposed barriers on U.S. trade when we passed Smoot-Hawley, and if you will read that same list, you will find that each and every one of those nations has preferential legislation with respect to automobile imports. We are worried about a trade war? We have a trade war. The trade war is waged against America, against American exports, against American goods, industry, and jobs inside our own boundaries.

Do not kid yourselves that this is going to hurt our trade. Believe that the legislation now before us will give our people an opportunity to negotiate away from these outrageous trade barriers, and do not, for the love of God, vote for some kind of amendment like this which is mischievous in purpose and whose consequences in terms of the administration of the legislation are incalculable.

I urge that this amendment be defeated.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr OTTINGER. I yield to the gentleman from Missouri.

Mr. SKELTON. I would like to say a word, Mr. Chairman, as a member of the Small Business Committee.

Mr. Chairman, we have heard today of the disastrous effect of foreign competition and, in some cases, unfair trade practices on our domestic automobile markets. It has been pointed out that these activities undermine some of our largest industries, such as the auto industry, the steel industry, and the glass industry, causing unemployment and causing damage to our economy and balance of trade.

What is mentioned less often, Mr. Chairman, is the impact that the destruction of our markets is having on small businesses. Over 10,000 small business contractors depend directly on the auto industry and related industries for their livelihood. Thousands more small businesses suffer because they are located in areas where the auto industry is a primary employer. These businesses, such as mom and pop grocerys, restaurants, clothing shops, are the first to feel the squeeze when unemployment increases in their area. The tragedy is that our small businesses close their doors faster than large businesses do as a result of these attacks. They do not have the credit resources and the financial depth to recover from even a short period of economic distress. The fallout from the invasion of our auto markets has contributed to the record number of small business bankruptcies that are occurring in the United States—the highest since the Great Depression. Unemployment is therefore increased; less cars and other consumer goods are purchased and the economic spiral gets worse and worse.

Mr. Chairman, I would not have come to the well today if I thought the downturn was the result of our inability to compete. I am still convinced that in fair and open trade, the United States auto industry or any other industry can hold their own in world competition. In this case, however, I think that ample evidence has been produced to show that our foreign competitors are jealously protecting their own markets while launching an all-out attack on ours. In the Small Business Committee, we have seen that they have even carried the fight to aftermarkets where foreign manufacturers bring pressure to bear on U.S. dealers to use foreign manufactured spare parts over those produced by small American manufacturers.

I must therefore, support H.R. 5133 as the best method available to protect our businesses, especially our small businesses from extinction. If fair trade with our trading partners has been made impossible as a result of

their actions and their decisions, then the only alternative left for us is to defend ourselves by these extraordinary means.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I would like to ask the gentleman from New York and the gentleman from Michigan a question that has plagued me about this bill all along. Both the gentleman from New York and the gentleman from Michigan, both friends of mine who are much more knowledgeable about these things than I am, say that other countries have trade barriers, whether they be import restrictions or domestic content legislation.

I ask the gentlemen, if this legislation were to become law and those other countries were to drop all their trade barriers, would this legislation then be canceled? My point is that this legislation, as somebody has mentioned, fires a shot across the bow of Japan or any other country. What we need, therefore, is some kind of lever or some kind of criteria to say that if the Japanese reduce their trade barriers, we will reduce ours, or we will not impose the penalties outlined in this bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. SCHUMER and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. My father used to have a saying to that kind of question. If my aunt wore pants, she would be my uncle. The answer is, yes, of course, if all the countries in the world dropped all their barriers against our products, we would not need this legislation. But, that is not the direction in which things are going. In point of fact, additional barriers are being placed by Europe, and we stand there, my good friend from Florida and the other opponents of this bill, and say that we should do nothing, we should just continue to espouse in the world body that we should have free trade. I think we will not get free trade that way. We will get increased discrimination, discrimination against the United States.

Mr. SCHUMER. If I might just respond to the gentleman from New York, I think there is a middle ground. There is a ground that can make this legislation do what so many people are intending it to do, and that is require other countries, particularly Japan, to reduce their trade barriers. As this bill stands now, it does not encourage free trade. It simply says that we must have domestic content even if other countries eliminate their trade barriers.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield.

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman for yielding. I thought the gentleman from Michigan made a very interesting point in indicating that this in many ways was a response to trade barriers that already exist. Let me ask the gentleman from New York, does this bill involve an exemption for countries that do not impose these kinds of barriers on our products?

Mr. OTTINGER. Well, it only applies to automobile companies in interstate commerce that sell more than 100,000 automobiles in the United States, and do not have the required domestic content.

Mr. BROWN of Colorado. Would not the gentleman agree that it is fair to say that this bill is not designed to respond to barriers in other countries, because all it does is, it applies to the products of other countries whether they have that kind of barriers or not? Is that a fair summary of the bill?

Mr. OTTINGER. What we are doing is saying that we are going to protect our markets in the same manner that every other country protects its markets.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I want to speak in favor of the amendment.

Mr. Chairman, we have had some interesting debate on this particular amendment. I think this amendment, like its predecessors, has shed some more light on this particular bill.

I would comment first of all on the suggestion of the gentleman from Michigan that the gentleman from California really does not want his amendment to pass. I have discussed it with the gentleman from California, and I am going to do everything I can to see that we all have a chance to express ourselves, and I will wager that the gentleman from California will vote for his own amendment.

Someone also said that there was a foreign prejudice against U.S. car exports, but this bill does not deal with that at all. That point was made very ably by the gentleman from New York (Mr. SCHUMER) and the gentleman from Colorado (Mr. BROWN).

The fact is, this bill is not aimed at trying to get barriers abroad reduced. That is not the purpose of the bill. The whole background against which we are debating this bill, is that other countries are unfair. But this debate has shown there is nothing in this bill to cause anybody to reduce any barriers.

The purpose of this bill is to confine this country's market to itself; to make sure that no foreign parts can go into American cars. That will create our own export prejudice. That is, American cars will be so high priced that they cannot sell abroad.

Had the Members been in our committee and listened to the testimony, they would have heard what the domestic producers told us. They would be knocked out of the world car market. That is exactly what Secretary Baldrige told us. Auto companies would not be able to compete.

Those barriers abroad are going to be self-erected by this bill. At the same time, the bill is going to cause the yen to go down. That will make it more difficult for American products to sell abroad.

We are shooting ourselves in both feet, and in other places, in this bill, and the trouble is, the people who are sponsoring this bill are doing it knowingly.

Finally, I want to repond to one other statement made by the previous speaker. He said that he was for this bill in the name of small business. I would like to advise him that the largest small business organization in the United States, which many of us accept as a spokesman for small business, is very strongly against the bill.

I think what the Dannemeyer amendment does is point out, just like the three amendments that preceded it have done, what is wrong with this bill. It shows how it does not get at the problem, how it costs extra jobs, and raises prices on the American people unnecessarily.

In this case, the amendment does not change the bill at all. It simply describes it in honest, straightforward terms. So, if you believe in truth in advertising, if you do not believe in misleading and deceptive terms, I think you will want to vote for the amendment of the gentleman from California.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding.

You know, I have heard this argument so many times about the 31 countries that have local content restrictions against automobiles, and the source of that is a Ways and Means Committee staff study in 1980. I have it right here in my hand if anybody wants to examine it. They never quote the whole study, so let me read the names of these illustrious countries, great countries that have these automobile restrictions. They are all listed here. Members may be surprised when they read them.

Argentina; how many of you have ever driven an Argentine car? Australia; Australia has domestic content, and it has a mess for an automobile industry, very high prices, and even the Australians will not buy their own

cars. Bolivia; ever driven a Bolivian car? Or a Chilean car, a Columbian car, a Greek car, an Indonesian car, a Malaysian car, a Moroccan car, a Nigerian car, or a Pakistani car, a Peruvian car, a Philippine car, or a Portuguese car? Have you ever seen any of them on any market, anywhere? Have you ever driven a Thai, a Turkish, Uruguayan, Venezuelan, Yugoslav car? I have read, and this list contains a list of all of the countries, yes or no, about their restrictions.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. There is one thing it does not include. The United States has the highest truck tariff in the world. The United States has a quantitative restraint, which the Japanese agreed to, on cars coming into this country. You know, the only country this staff study shows that does not have any restraints—can you guess what it is? Can you guess what it is? Japan. You never heard of that in the UAW ad. You never heard the gentleman from Michigan, who quotes this as his source material, say that.

I am not here to defend Japan. This study is wrong. Japan does have restrictions against American cars, but the real problem is, no American manufacturer wants to really sell a car in Japan. Our cars even have the steering wheel on the wrong side. No Japanese is going to have to struggle across the seat to throw a yen in the toll box. That is the problem. You go and talk to these manufacturers.

□ 1400

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

(On request of Mr. FRENZEL, and by unanimous consent, Mr. GIBBONS was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. Mr. Chairman, I am going to leave the room as soon as I say this, but it is because I am going to have to go someplace else, but I will be right back.

Mr. FRENZEL. The gentleman can testify on CBI.

Mr. GIBBONS. Mr. Chairman, I did not put up with just the prefunctory lobbyists who come in and want to testify on these bills; I asked the automobile manufacturers to send in their chief executive officers. Ford sent theirs in under protest, and General Motors sent theirs in under protest. The gentleman from Chrysler said, "I have got so many problems with the UAW I can't go anywhere."

I did not insist that he come in. But all the other chairmen of the U.S. manufacturers came in, including the U.S. subsidiaries of the foreign manufacturers, every one of them. They said, "We've got a real problem in the automobile business."

But this thing does not solve any problems; this just creates more problems for us. All of them are going to become more inefficient, and eventually this will drag the industry down. That is what this bill does.

If my good friends on the Commerce Committee had conducted full hearings—and they are capable of having full hearings—and had anything but a couple of witnesses there, they would have learned all of this.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have just heard a vital portion of this debate. The Members of this House know why Japan does not today place restrictions, at least overt restrictions on automobile imports. This bill is little more than an honest, typically American way of responding to unfair treatment. We know why Japan does not have open import limitations now.

As the chairman of the subcommittee, knows, because we had extensive testimony on it before the Trade Subcommittee, the Japanese for years in an outright way absolutely restricted the sale of any foreign automobiles in their country. You could not sell a foreign automobile in Japan, and you could not sell that automobile until their industry had completely dominated their domestic market. You simply could not bring a car into that country and sell it.

Do the Members want to know when that restriction came off? That restriction came off when very, very careful regulations were put in place, regulations concerning everything from investments to loans. You could not get any kind of equity in Japan to build a factory there to sell cars.

Do the Members want to know the most widely sold foreign automobile in Japan? It is a Volkswagen. They sell about 40,000 units. They have got to go through high water and floods—I would not say bribery and pressure or harassment or anything like that—in order to meet the requirements that Japan places upon them.

It is absurd and misleading to talk about that great Japanese automobile industry as if its history of restrictions against foreign manufacturers and importers did not exist. That is just not fair. In everything from steel products to cars, you did not have the ability in the past to go into that country and sell.

What the gentleman from New York and the gentleman from Michigan said is correct. This bill is nothing more than a political culmination long, long in the formation, in response to a long, long string of abuses. It is a bill that we should pass and do the Japanese leaders a favor so that they can go to their constituents and say, "we have got to respond to our responsibilities as a modern trading nation and open markets and open our capital markets. We have got to go out there in our foreign markets and not use the government to finance exports," which is what they do, particularly long-term capital intensive projects. They have to make these changes so that there is some kind of investor confidence somewhere else in the world in capital goods, as opposed to having to face the requirements imposed upon world markets by Japan, Incorporated.

Mr. Chairman, the gentleman from New York is 100 percent correct, and I want to associate myself with his earlier remarks.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's yielding.

Let me observe that I do not think the floor of the House is an appropriate place to rewrite history, and even George Orwell in his most imaginative effort could not bring himself in any novel to say that the rise of nazism in World War II was caused by an act of Congress in the 1920's. I would hope that none of the Members would fall into such a trap as to believe that. It does great disservice to history.

Let me say to my good friends on the conservative side that I suspected they were probably about 12 to 15 years behind, but I did not know that they were in the 1920's. The economic circumstances that confront the United States and modern industrial nations of this world in the 1980's are substantially different from those in the 1920's and the 1930's. I would hope we could agree on that point.

Let me also say that our major Asiatic trading partner—and indeed we are partners, and we are friends; let me underline that—is Japan, but we must remember also that the standards by which we are judging them are based upon our own norms. They have different norms and economic models. Their economy, their philosophy, and their ethics are totally different from ours. They are totally different. If we measure a response to what they are doing on the basis of what we are doing, we are not looking at the real world; it is apples and oranges we are comparing. Not apples and apples.

They act in concert with a united effort in which their Government, their industries, their banks, and their labor unions make collective decisions based upon long and careful negotiations and conversations had around the tea table. They have a concensus economy popularly called Japan, Incorporated.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BAILEY) has expired.

(On request of Mr. TRAXLER, and by unanimous consent, Mr. BAILEY of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield further?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's yielding further.

Mr. Chairman, it is critical that we appreciate the fact that what we are talking about here is not some American companies competing with some other companies in another country. That is absurd. Anybody who believes that is an Alice in Wonderland.

In 1976 a decision was arrived at in Japan, this country that is our good friend, in which the Government, unions, banks, and all the auto companies agreed to expand their automobile production by 55 percent, with the consent of the banks and the authority of the Government, certain agreements having been reached that nobody would suffer economically as a result of that.

And the marketplace for that 100 percent increase in production, where was it going to be? In Japan? Of course not. In Europe? Of course not. It was going to be in the United States.

There is no way we are going to have some kind of fair trade among automotive products between the United States and Japan. They will not permit it, anymore than they will permit American beef to be sold in any quantity in Japan or tobacco to be sold, or our fruit or vegetables.

Did the Members read yesterday's article in the Wall Street Journal concerning the interview with the Prime Minister of Japan? It was incredible. We are going to talk to them from now to doomsday, and do we know what we are going to get? A lot of tea.

These are national decisions. The Japanese have to import raw materials and export a finished product to survive and to live. I understand that, and I think what we need is some fair trade understandings between us and our friends, not the system that currently exists and that suggests that we are dealing on the basis of equals with equal kinds of competing economic systems. I think that is the most naive concept that any Member of this Congress could make.

Mr. Chairman, I extend my deep appreciation to the gentleman from Pennsylvania (Mr. BAILEY) for yielding to me. I urge a yes vote on the bill.

Mr. STANTON of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Ohio.

Mr. STANTON of Ohio. Mr. Chairman, I appreciate the gentleman's yielding, and I was so interested that I almost forgot what I was going to ask him.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BAILEY) has expired.

Mr. STANTON of Ohio. Mr. Chairman, I will take my own time.

The CHAIRMAN. The gentleman will be recognized.

Mr. STANTON of Ohio. Mr. Chairman, I move to strike the necessary number of words.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. Mr. Chairman, I know that the gentleman is going to ask for limited debate, and I am not going to allow that, so I hope that he does not ask me to yield right now for a couple of minutes.

Mr. OTTINGER. Mr. Chairman, the gentleman will get his 5 minutes.

Mr. STANTON of Ohio. I know, but I want more than that. I will ask the gentleman to just sit down for a few minutes and relax.

Mr. Chairman, I will tell the gentleman why I am going to do that, because I was not here at the start of this debate. But the gentleman from Florida (Mr. GIBBONS) explained this, as he often has the opportunity to do, and when he was joined by the gentleman from Minnesota (Mr. FRENZEL), they started to make an argument and a point, and I think it behooves all of us, even if we disagree with them, to listen to their arguments because I think the two of them have put together a case against this bill that I believe one has to consider.

It is very hard for a Member like me, coming from northeastern Ohio, in the heart of the United Auto Workers area, to see their point of view politically, but I have always been consistent and have always felt that protectionist legislation of the type we are dealing with today is totally against the best interests of the citizens of the United States.

Several questions have not been asked. First, I listened to the gentleman explain why it was hard to sell American automobiles in Japan, and I basically think he is probably about three-quarters right. The problem we are addressing today is this: And I have not heard that addressed, why are Americans buying Japanese cars?

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. I will yield in a minute.

Mr. BAILEY of Pennsylvania. I would be happy to tell the gentleman.

Mr. STANTON of Ohio. I happen to think it is because they think it is a better product. What does the gentleman think? What is his answer?

Mr. BAILEY of Pennsylvania. I think if we sat down and compared products, we would recognize that for a number of years, particularly through model changes and response to OPEC impacts on buyer preference, with the fit and finish on Japanese automobiles, in conjunction with a very devalued yen, it made that a good consumer buy, and I think the gentleman makes an excellent point.

Mr. STANTON of Ohio. Mr. Chairman, I will not yield any further.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I wish the gentleman would be fair and let me complete my answer to his question.

The CHAIRMAN. The gentleman from Ohio (Mr. STANTON) retains his time.

Mr. STANTON of Ohio. Mr. Chairman, I thank the gentleman for his answer. I was also listening to him over there before, and I know the subcommittee chairman is anxious to move this bill along.

The answer is that either pricewise or for other reasons, they buy it because they think it is a better buy. There is nothing in the world that I particularly dislike more than a foreign-made automobile. My family for 77 years has been connected with the automobile business. My father quit high school to go to work for Henry Ford. He thought that next to the Pope, Henry Ford was the best man the world ever knew, and I think for some reasons, because he gave jobs to Americans, that he was right.

In the area where I live in this city, in the alcove where I live, there are 10 houses and there are 14 automobiles there in our little alcove in Georgetown. Twelve of the fourteen are foreign-made automobiles; the two that are not foreign made are mine.

I have taken the time to go around to these people and ask them, and they say, "if I could get an American car like this," and so forth. But I do not find this back in Ohio. We very rarely see a foreign-made car there. Maybe for the elite or something, it is there.

But the answer, wherever we are, is the same, that they think it is a better made car. Second, to my point, the answer really and truly to the gentleman from Michigan, who said we were naive to think that history had something to do with the problems we face today, I happen to be very naive, because the gentleman from Florida was absolutely correct.

It was correct not only in World War II, after the buildup since the Depression days of the 1930's but a great case can be made in World War I, where this general subject of protectionism has eroded and grown by leaps and bounds, and the next thing we know, we are selling less trade abroad.

We will see that this is a very, very important problem that we are addressing, and for that reason we

should listen very carefully to the arguments that were so well put by the gentleman from Florida (Mr. GIBBONS) and the gentleman from Minnesota (Mr. FRENZEL).

Let me just allude to one final point, if I may. That is this: That as we address this system and as we look to the future, let us look more constructively and positively to the questions involved. Let us see if, as a country or a government, there is something we can do to help the auto industry or help the basic steel industry in creating the best products that we can build and give them the free opportunity to make products that the American people want to buy. I think that is the answer.

I think we would be constructive in looking toward that particular goal. I think that there is something we can do and a goal we can reach if we constructively look at this problem. But once we head down the protectionist route, I am very sorry to say that I do not think it is a correct answer.

Mr. Chairman, I appreciate the courtesy of the chairman of the subcommittee and thank him for this extra time. I also compliment him for bringing to our attention this all-important subject and giving us a chance to equally debate this subject, because there are obviously strong views on both sides.

□ 1415

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all time on this amendment and all amendments thereto end in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GRAMM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SOLARZ. Mr. Chairman, during the debate on this bill last week and today a number of rather critical and, indeed, even one-sided comments have been made by Japan. So it seemed to me that, given the overriding importance of the relationship between the United States and Japan, not only for our two countries but for the peace and prosperity of the entire world, it might perhaps be beneficial to put this relationship in its proper perspective.

There can be little doubt that, in spite of the fact that the Japanese are increasing their defense spending at a faster rate than their domestic spending, in spite of the fact that they have the eighth largest army in the world, in spite of the fact that they are contributing $1 billion to the upkeep of American forces in Japan, in spite of the fact that they provide us with bases that are critically important in terms of our ability to protect our interests in the Western Pacific, that Japan can and should be spending substantially more on its own defense.

It is equally true that the Japanese market is far more restricted toward American exports to Japan than the American market is with respect to Japanese exports to the United States. And the American people clearly believe that fair trade is a condition for free trade.

I share the view of those who believe that Japan can and should be doing much more to open up its markets to the United States, not only because it is in our interests but also because it is in their interests as well.

At the same time, however, I think it is also important for us to recognize that over the course of the last several years the Japanese have been making progress toward the elimination of many of their trade barriers.

They have, for example, tariffs which are on the average as low as the tariffs in the United States and in the European Economic Community.

Between 1960 and 1980 they reduced the total number of their trade quotas from over 400 to just 27 today, 22 of which are agricultural.

In the course of the last year they have adopted a number of other trade reforms. Over 70 of them involve changes in product testing and custom procedures designed to reduce the nontariff barriers to trade that have occasioned so much criticism in the United States and abroad.

Perhaps most importantly, former Prime Minister Suzuki a few months ago pledged to use the influence of his office to encourage Japanese firms to buy foreign products. Potentially over time this may be the single most significant trade reform to which the Japanese have committed themselves.

Furthermore, I think it is important for us to recognize, amidst the orgy of criticism which we have directed against Japan for its restrictions against trade, that our hands are not exactly clean either.

The fact of the matter is we have prohibitions against the sale of Alaskan oil. We have a variety of Buy American acts in Federal and State legislation. We have, in effect, imposed restraints on Japan with respect to the export of Japanese automobiles.

We have quotas on textiles manufactured in Japan and elsewhere. There are restrictions on the export of color television sets to the United States.

Our trigger price mechanism with respect to steel was clearly also a violation of free trade principals.

I mention this litany of American violations of the principal of free trade simply to make the point that in the course of the criticisms we direct against Japan, and I share many of those concerns and I have expressed many of those criticisms myself, we ought not to be too self-righteous because we are guilty also of violating fundamental free and fair trade principals.

I have just written an article which appears in this month's issue of Foreign Policy magazine which goes into some detail about the kind of trade restrictions they have in Japan. We conducted hearings before my subcommittee on Asian and Pacific affairs on trade and defense problems in the United States-Japanese relationship.

We made it absolutely clear that on balance Japan does have greater restrictions against American exports than we have against Japanese exports and they ought to open up their markets more.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLARZ) has again expired.

(By unanimous consent Mr. SOLARZ was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. But I want to make in conclusion one point to my colleagues who are on the floor at this moment. That is that there are a lot of very knowledgeable people who have studied the trade problems in the United States-Japanese relationship who have come to the conclusion that if the Japanese eliminated all of their nontariff barriers to trade and we eliminated all of our nontariff barriers to trade that the trade deficit, rather than diminishing, would actually increase.

I do not know whether that would happen. I would be prepared to take my chances. I think we ought to be moving in the direction of freer and fairer trade.

This legislation may be necessary as a temporary measure to protect a vitally important American industry. It clearly does violate principals of free trade but, hopefully, if it is adopted it will encourage the Japanese to recognize that they have to make greater progress in reducing their barriers to trade.

But let us understand that, as Mike Mansfield, our Ambassador to Japan, who is probably the most able American Ambassador anywhere in the world today, has said, this is our single most important bilateral relationship. If this bill is going to be adopted let it be adopted in a way which does not harm or impair our ability to preserve this critically important relationship with a country which has in fact cooperated with us in a number of very important areas.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLARZ) has again expired.

(By unanimous consent Mr. SOLARZ was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. Following the Soviet invasion of Afghanistan they boycotted the Moscow Olympics and adopted sanctions against the Soviet Union.

Following the Vietnamese invasion of Cambodia, Japan ceased providing aid to Hanoi.

During the hostage crisis in Iran they adopted sanctions against Iran even though many of the European countries did not.

Following the establishment of martial law in Poland they adopted sanctions against that country as well.

Between 1980 and 1984 they plan to double the level of their foreign aid and at our request they are providing substantial amounts of foreign aid to Turkey, to Egypt and to Pakistan and other strategically important countries.

Japan is a nation which does not do everything we want it to do and which has to make more progress on defense and trade. But it is fundamentally a country which is friendly to the United States and upon whose friendship we depend not only for our own peace and prosperity but for the peace and prosperity of Asia and the whole world, and I think we ought to keep this in mind as we consider this legislation.

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to compliment my friend from New York, Mr. SOLARZ, for his very throughtful and quite courageous statement. He has reminded us, Mr. Chairman, that Japan is not an enemy of the United States. There are problems with Japan. They need to be resolved. But the real enemy of the United States are those impediments—theirs or ours—that stand in the way of peace and friendship and trade and prosperity, not only of this country but, indeed, of the rest of the world.

The gentleman from California has done a service by bringing to the attention of the House, as has the gentleman from New York, what happended and what happens in the world when policy changes are made that cause economic contraction. So I thank the gentleman from New York.

He also reminded us of another very important truth, which is that we do not live in a closed economy. We live in a global economy. Our jobs and our standard of living are not independent. I know this is shocking to some of my colleagues but we are interdependent. Where American jobs and American incomes are concerned, it matters what happens in the rest of the world.

I know this is microscopic but think of a bottle of Coca-Cola sold in New Delhi, India. Part of that dime or whatever is the cost of that bottle of Coca-Cola goes to the shopkeeper. Part of that price goes to Jamaica, to a sugar plantation. Part of that price might go to New York, where the glass is made. Part of that price might go to Atlanta, Ga., where the company is managed or to some other place. The microscopic impact is minuscule but magnified by millions and millions of times, the economic impact of those types of sales, have an impact on our lives. Cutting out any single step threatens the whole income.

There is only one closed economy and it is a global economy. It is desparately important that we think of the consequences of our actions.

Imagine the United States of America for just a moment as 50 States and imagine that in every State they have their own tariffs, every State has its own currency, freely floating against the rest.

We would be told to buy New York or buy Ohio.

I want to say parenthetically that I buy American. I drive an American car. My wife drives an American car. My son's first car was a Jeep.

But for the sake of the American economy and American jobs I do not think we ought to legislate buy American. Because the less we trade with the rest of the world, the fewer goods and the fewer jobs we can afford. It is in the interest of the people I represent and of this country, of their industry and their work, that we must avoid tragic mistakes.

But I want to go back to my analogy for a moment.

Imagine the American economy, cut up into 50 States, each competing against the rest, everybody with their own currency, everybody changing that currency, everybody trying to beggar his neighbor by changing the currency value and the tariff almost daily. Compare that with our unified American economy with a single currency, and you get some idea of what has happened to the efficiency of the world economy in the past 15 years, since the progressive deterioration of our monetary and trading systems. That is why the whole world is in a depressed condition today.

We are dealing for the first time in our adult history with a world that is broken up into nation-states trying to beggar their neighbors by changing their currency, changing the rules of the game, changing their tariff policies and their trade policies and their exchange rates and doing nothing other than competing in a zero sum, a negative sum, contest in which everybody gets hurt.

Think back to the time in which we had a world in which there was a single, honest and sound and stable currency for the world, the gold dollar, and stable exchange rates which protected everybody's right to trade and engage in commerce across barriers of space and time without the uncertainties and inefficiencies of dealing with countries that were using their trade and their exchange rates to gain a temporary trade advantage. Yet, instead of talking about how we can put such a stable and prosperous system back together, we are debating whether to destroy the stability and prosperity that remains.

I thought it was interesting that Douglas Frazer, the very respected leader of the United Auto Workers, in testimony on page 157, gives as much weight to monetary policy as he does to this bill. I think that is interesting.

I do not know if he would think about monetary policy the same way I would. But I think he has put his finger on another key problem—domestic monetary policy. There are three issues facing this Congress: jobs, jobs, and jobs. If we want to create jobs, we should consider monetary and tax policy.

In 1978, my friends, automobile sales in the United States of America were at 13 million plus. By 1979 they dropped by 38 percent. Today they are at an extremely depressed level.

What happened in 1979? We changed our monetary policy. Interest rates doubled.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

(By unanimous consent Mr. KEMP was allowed to proceed for 2 additional minutes.)

Mr. KEMP. Interest rates went into the stratosphere, the prime rate, consumer rates, mortgage rates. The depression in autos began with the stratospheric climb to the double digit interest rate problem that I think was precipitated by some of the monetary policies of 1978–79.

Housing went down the chutes in 1979. Housing starts were 2.2 million in 1978. They went eventually as low as 600,000.

Agriculture, steel, all of the key industries of this country declined. I am not trying to point the whole finger at just monetary policy—but I think Douglas Frazer has something when he says that monetary policy is a prescription for getting automobiles back on their feet.

If interest rates came down to single digit levels we would be selling automobiles again. Interest rates have come down since July and already housing is up 30 percent.

□ 1430

Reforming monetary policy would do more for the automobile workers and the steel workers than all of these zero-some legislative initiatives that are being made here today.

In my heart I respect the gentleman from New York. I respect all of the proponents of the bill. We agree on the crying need to create jobs, to help

Americans who are struggling to keep their heads above water. I think we are making a mistake, though, if we think that this is not going to bring about retaliation. The gentleman says there is already retaliation. I agree. But tearing down somebody else's home is not going to help build the home that we all live in, the United States of America.

The last point is simply this: The great growth of trade in the 1960's, the great growth in trade since 1945, has been the result of our country working, as the gentleman from New York pointed out, with other nations to bring about an environment in which we can have trade and commerce and fair as well as free trade. I know it is not completely fair. We should work to make it fair. But we are not going to make if fair if we start dropping the equivalent of low-yield nuclear bombs on our trade partners. That would be a job-destroying mistake. And I ask the House to turn down this legislation and support the amendment offered by the gentleman from California.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

(On request of Mr. PRITCHARD and by unanimous consent, Mr. KEMP was allowed to proceed for 1 additional minute.)

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chariman, I just want to commend this gentleman from New York and say that I am in agreement with what he stated. I would also like to commend my chairman of the Foreign Relations Subcommittee in whose hearings I participated.

What the gentleman said is correct. I think also the House ought to realize that this bill affects more than just Japan. All of the discussion hinges on Japan. And yet this bill is going to have an effect on countries all around the world. There is a problem. But this legislation is not the way to solve it.

I hope that this House will turn it down.

Mr. KEMP. I thank the gentleman for his comments.

Mr. Chairman, we should be working to break down those barriers, stabilizing exchange rates, creating an international environment for trade, reforming domestic policy to spur expansion, and I think all of us would do more for our auto and steel-workers that way than by passing this legislation.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak on behalf of the amendment.

Mr. Chairman, in committee and here on the floor today we have heard a lot of good arguments about a problem that exists between the United States and its trading partners.

The problem is one that exists because we have tried to promote free trade in general, though our colleague from New York has pointed out that our rhetoric is better than our performance, and some of our trading partners have clung to advantages that we gave them in the postwar era, creating clear disadvantages in many areas to expand trade of American goods abroad. This is especially true in the area of agriculture. And while I am totally in agreement that this problem exists—and the problem has been alluded to over and over—this bill in no way addresses that problem. In fact, this bill will compound that problem because this bill simply says "do not open up your markets to U.S. products," as we have heard over and over and over today. There is no vehicle in this bill to promote the open-market objective. This bill says we are going to force you to produce a substantial amount of a significant product—automobiles, motor vehicles—that are sold on the American market in the United States.

It seems to me, Mr. Chairman, that there are several points missed, and I would like to try to go through them very rapidly and make the points as clear as I can.

No. 1, this bill will not create a single job, even if no nation in the world reciprocates. If no nation in the world raises its trade barriers in response there will still be no net job impact.

Now, why do I say that? I say that because we are operating under flexible exchange rates. The values of the dollar on the world market relative to other currencies is set by supply and demand. So if we come in with a domestic content bill and we reduce the import of Japanese automobiles and we have them built here to the extent that they are produced, then there will be a strengthening of the value of the dollar because we are buying less abroad. But as the value of the dollar goes up, the competitiveness of American goods—one out of every 6 American jobs is in exports—will decline. So that for every United Auto Worker job that we save, even if no other nation initiates a trade war responding to our first salvo, there will be an American job in another industry that will be destroyed.

So this is not a job-creation bill. This is a job-transfer bill. And the problem is: Who are we taking jobs away from? We are taking jobs away from industries that are growing and that are competitive and that represent the future of our Nation in the 1980's and the 1990's, and we are giving jobs and protecting jobs in an industry which has not stayed competitive. And I am not going to say the whole fault is with management or the whole fault is with the United Auto Workers. But the plain truth is that the American people have not been forced to buy these Japanese automobiles. They bought them because they were good automobiles and because they have competed and because they were given value at a given price.

But in tranferring jobs we still do not preserve the jobs that we save by taking other American jobs away.

What has happened to the nations that have followed this route? What has happened in Britain with protectionism? What has happened in Britain is that as they have subsidized, as they have protected their heavy industry, the very problems that made them noncompetitive, to begin with, have not been solved. In fact, the problems have gotten more difficult.

Our trade problems in automobiles represent a means to a solution, not the problem in and of itself. It forces the unions, it forces management and it forces Government to change the rules of the game to make us competitive. If we take away the pressure to make difficult decisions, difficult decisions for presidents of labor unions, difficult decisions for the president of General Motors and difficult decisions for Members of Congress, I submit that those decisions will never be made; and we will be back here in 2 or 3 years with the same problems, without the jobs being protected in the automobile industry, but with the jobs having been destroyed in other industries.

We here today are speaking not just about any other nation. We are talking about the policy of the world's greatest economic power. What we do is going to affect the decisions of others. We cannot be the world leader and try to protect our industry from legitimate, or, in some cases, even illegitimate, competition. What we need if this problem persists is a reciprocal trade bill that says to our trading partners, "If you are going to discriminate against our products, then we will in turn discriminate against yours."

The CHAIRMAN. The time of the gentleman from Texas (Mr. GRAMM) has expired.

(By unanimous consent, Mr. GRAMM was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. But this type legislation magnifies the problems we have. It transfers jobs from those industries that have been competitive, that have been responsible, to those that are not. And in the long run, it is self-defeating. I think it is imperative that we make it clear that this bill does not represent the policy of the Congress or the policy of the United States.

One final point. I am deeply concerned that a lot of people are voting

or are supporting this bill because they think it is sending a signal. Maybe a signal needs to be sent. But I am concerned that, when the bill comes back in the next session, people who are on record are going to have a hard time getting back across the river. And I wonder when Smoot-Hawley—since we are talking about that subject today, thanks to our colleague, the gentleman from California—was introduced, how many Members were simply trying to send a signal? How many Members thought the bill would never get out of committee, as was the case in the Commerce Committee? How many Members thought that they were simply pleasing some special interest back home and, in the process, they really contributed to the decline in world trade, the decline in prosperity, the decline in opportunity and freedom? I hope that is not the case here.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from New York.

Mr. LENT. I thank my colleague for yielding, and I want to commend and congratulate the gentleman from Texas (Mr. GRAMM) on his statement, in which I heartily concur.

The gentleman made some excellent points about the loss of jobs that will result from the passage of this bill. I think the Congressional Budget Office fixed the number at something more than 104,000 American jobs which will be lost.

I wanted to point out to my colleagues that the American Association of Port Authorities is very much on record and has adopted a resolution opposing this bill. More than 98 percent of all of our international trade passes through our Nation's seaports, and our port industry, directly and indirectly, employs 1 million persons and generates some $66 billion in dollar income.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GRAMM) has again expired.

(On request of Mr. LENT and by unanimous consent, Mr. GRAMM was allowed to proceed for 1 additional minute.)

Mr. LENT. If the gentleman will yield further, the trade repercussions of this bill will have a substantial impact on our ports. According to the American Association of Port Authorities—and I am going to put their resolution in the RECORD—this bill will jeopardize the more than 1 million port-related jobs, the more than $30 billion contribution of U.S. ports to the GNP, and the investment made to port facilities, which is valued in excess of $50 billion.

The Department of Transportation estimates that 7,600 to 11,600 direct jobs would be lost as a result of this bill, and somewhere between 53,000 and 81,000 indirect jobs would be put in jeopardy in 14 ports as a result of enactment of this bill.

In my home State of New York, a total ranging between 7700 and 11,700 jobs would be lost.

These would be jobs of longshoremen, truckers, railroad employees, distributors, barge crews ship suppliers, tugboat operators, custom brokers, nd others which would be hurt by this bill.

Resolution of AAPA follows:

THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

(A resolution opposing the enactment of H.R. 5133 and S. 2300, bills to impose domestic content requirements on auto importers and to restrict auto imports)

Whereas, the American Association of Port Authorities, founded in 1912, represents the public port authorities of the United States; and

Whereas, these public port authorities have provided the initiative in developing a superior port system for the United States, the shoreside cargo handling facilities and infrastructure of which is valued in excess of $50 billion; and

Whereas, the Association recognizes that the United States is vitally dependent on the flow of international trade, both imports and exports, and that 98 percent of the volume of such trade moves via water carriage and is thus dependent on the port system; and

Whereas, the Association has, for many years, maintained a position supporting open international trade policies and continues to hold that barrier-free trade serves the best economic and national defense interests of the United States; and

Whereas, the Association's U.S. Legislative Policy Council has carefully considered H.R. 5133 and S. 2300, proposed legislation which would impose domestic content requirements on importers of automobiles, and further, would serve to restrict the imports of automobiles, the Association now concludes:

(1) Open trade policies have made a significant contribution to the prosperity of the United States and the nations of the world; and

(2) Artificial barriers of commerce between nations impede national growth by reducing the challenge of competition which spurs productivity and innovation; and

(3) Domestic content requirements restrict the free flow of commerce, violate international trade agreements and tend to increase costs to consumers; and

(4) The "Fair Practices in Automotive Products Act" (H.R. 5133 and S. 2300) introduced in the Congress would impose domestic content requirements on auto manufacturers which sell more than 100,000 vehicles in the United States; and

(5) Such legislation would have the same effect as mandated quotas, severely restricting the number of auto imports into the United States; and

(6) Independent studies have shown that one direct port job and seven indirect jobs in the port region are related to every 234 autos that cross U.S. docks, and that auto imports contribute hundreds of millions of dollars to the economy of the U.S. ports and surrounding regions; and

(7) Pending domestic content legislation could invite retaliation against U.S. exports and could engender adverse impacts upon U.S. ports; and

(8) The effect of this proposed legislation—and the trade war it could provoke—could seriously jeopardize the more than 1 million port-related jobs in the United States, the more than $30 billion contribution of U.S. ports to the GNP (1977 figure) and a significant portion of U.S. port facility investments made by the public port authorities.

Now, therefore, be it Resolved, That the American Association of Port Authorities opposes pending automobile domestic content legislation and will work for its defeat.

Ms. FERRARO. Mr. Chairman, I move to strike the requisite number of words.

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield,

Ms. FERRARO. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, we have been an hour and a half or better on an amendment which just changes the title. There are about 35 additional amendments. So I ask unanimous consent that debate on this amendment and all amendments thereto conclude at 2:50 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentlewoman from New York (Ms. FERRARO) may continue with her 5 minutes, and then the Chair will recognize those Members who were standing at the time the unanimous-consent request was granted.

Ms. FERRARO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I support H.R. 5133, the Fair Practices Automotive Products Act of 1982.

Simply stated, what this bill is about is helping the U.S. auto industry. For the past 4 years, the industry has been sinking deeper and deeper into depression. Total sales are less than half their 1978 level and almost 1 million workers have lost their jobs, including 280,000 auto workers and another 670,000 workers in auto supply industries.

At the same time, sales of imported cars have been rising. Imports from Japan have increased by over 37 percent, and more than 1 of every 5 cars sold in the United States is Japanese built. Overall, imports make up 27 percent of the U.S. car market.

We can't continue to allow imports to take a larger share of our market, with the result of lost American jobs and an ever-worsening balance of trade deficit. Without strong, prompt measures to revive the domestic auto industry, overall economic recovery will remain beyond our reach. Traditionally we have always relied on a few basic industries, including autos and housing, to lead the economy to recovery.

The importance of the auto industry is easily demonstrated. Even in 1981, after 3 years of declining sales and layoffs, there were still amost 2.5 million people employed directly or indirectly in the industry. The additional economic activity generated by a healthy auto industry is just what is needed to pull the country out of this recession.

The bill before us will help create and maintain jobs in the auto industry. It will stop the exporting of jobs to Japan and will reduce outsourcing by domestic auto companies that transfers jobs from U.S. workers to low-wage Third World countries.

The bill takes a simple and direct approach. It simply requires that auto companies with more than 100,000 sales annually here build a certain percentage of those cars and trucks here. It doesn't establish quotas, or increase tariffs. It doesn't say, as other countries have said, "you can't sell here."

All it says is, if you're going to sell here, you have to build here. It says if an auto company is going to control a sizable share of the U.S. car market, that company will be required to locate production facilities here, and hire workers here, and buy auto parts here. It's a fair proposal, and the effect will be to create or preserve 1 million jobs that would otherwise be lost.

The United States has always led the world as a proponent of free trade. In an ideal world, free and open trade between all countries would be the rule.

But we do not live in an ideal world. As we have learned, you can't have free trade without fair trade. For years, we have refused, in the interests of promoting free trade, to erect protections for U.S. workers. Now we know we can't afford to be so idealistic. Other auto-producing nations, notably Japan and our major allies in Europe, have trade barriers on automobile imports which are much more stiff than those contained in this bill. We need to pass this bill to provide our own workers with some basic degree of job security. I strongly urge my colleagues, on behalf of the future of the American auto industry, to join me in supporting this bill.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentlewoman for yielding.

Mr. Chairman, there was a question asked earlier here concerning the reasons for this legislation. There is no desire to strike back at Japan. Many of the comments that were made in the well by the gentleman from New York concerning Japan are correct. The difficulty with their military defense, is a lack of apparent reslove as a result of the Second World War incidentally, they have their northern islands, occupied by the Soviet Union, and will not resist there. But I must say that the Japanese effort, particularly in Southeast Asia, foreign policywise, is laudable and in fact I think they are doing some things that I wish that we would do.

We are talking about the reason for this bill and the reason is simply a matter of systems in conflict. You have an American system which has taught and preached and encouraged open, fair, and free trade. The gentleman from Texas was 100 percent correct. Many of the postwar policies of Japan were the result of our making. But the time has come for them to mature and respond. And, quite frankly, the reason why they are not is because they do not have an equal protection of the law clause and they do not have a one-man one-vote rule. Japanese leaders themselves will tell you that one of the greatest difficulties they have with their policy is a malapportioned legislative body that does not take into account some of the realities of modern life. So be it.

The question becomes whether or not this bill will have the effect of this really, does Japan or the world a favor. And I happen to believe that it does. If you sat down and looked at the reasons why our automobile industry, along with other capital-intensive industries are in trouble, conservatives in particular are met with a quandry. Some sort of a coherent, hopefully not even verging on the edge of planning, national industrial policy that will enable this Nation to compete should be examined. Right now the tax environment that a capital-intensive industry like automobiles has to contend with in this country places them at a great disadvantage when compared with the Japanese. The point is, though, that the Japanese have not done as much as they can do—and we had a discussion on this with USTR representatives just a few days ago—to help with these imbalances.

If there is going to be a world free trade model, the United States of America is going to have to assert her industrial, her economic, and political might. The truth in fact is that we are allowing ourselves to be used, and it is not serving our Nation well.

□ 1445

The gentleman from Texas I think presented some very balanced arguments. His conclusion was this bill does not achieve the desired results. I would say to him that if we could, when we wrote ERTA, sat down and responded to the needs of our utilities, to the needs of our basic industries; if we could now sit down and address in our Tax Code the kind of plant and equipment needs we have in basic industries the way they can in Canada or Japan, then we could look at a world steel market and if our companies could not compete then we could not complain. Nontrade barriers are at the root of much of the current friction. This bill in conjunction with industrial policies that we either lack or other nations have, have led to a great deal of frustration. And I would say that this domestic content law is simply a political reaction on the part of American consumers and politicians and political actors and interest groups to abuse and assault from abroad. If free enterprise is to mean anything—the rule of the game must be equal or reasonably equal for all participants. Today they are not. We are being used in bad faith. We have a responsibility to respond.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for approximately 30 seconds each.

The Chair recognizes the gentleman from California (Mr. PASHAYAN).

(By unanimous consent, Mr. FRENZEL yielded his time to Mr. PASHAYAN.)

Mr. PASHAYAN. Mr. Chairman, I had a few more minutes of information to say here. But I will not consume more than the one minute. I appreciate the gentleman yielding his time.

Very briefly, Mr. Chairman, this bill is strictly a barrier bill. It vests no power to negotiate in the executive branch. My district has a lot of farmers who grow oranges who would love dearly to export more oranges to Japan. I am aware most keenly of the problems with that country with respect to our exportation.

What our response should be is a bill that gives the executive branch broad negotiating authority, perhaps to impose certain kinds of restrictions and barriers. But this bill does not do that. This bill simply by force of law requires that these barriers be imposed and vests no power to negotiate in our executive branch. It is too inflexible.

We should reject this bill by aiming the rifle, but not firing it.

(By unanimous consent, Mr. COATS yielded his time to Mr. DANNEMEYER).

(By unanimous consent, Ms. FERRARO yielded her time to Mr. SEIBERLING).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, what is at stake here is the amendment offered by the gentleman from California which would set out a statement of policy which would cause the legislation, if this amendment is adopted, to be interpreted in a fashion directly opposite what the gentleman or anybody else in the body wants.

The debate has been going on about how our trade policies have been working. This is not a trade bill. It is a jobs

bill. It is before us because our trade policy has not worked and because the committees and the administration charged with giving us a trade policy have not acted properly.

(By unanimous consent, Mr. OTTINGER yielded his time to Mr. DINGELL).

Mr. DINGELL. And because neither the Congress nor the administration has done the things that are necessary to get us a trade policy.

Now, this country has now seen its basic industries so desperately eroded that there is depression in every industrial area. This is not a begger-thy neighbor proposal, and it will not involve or invite any kind of retaliation or retribution. That has long since been done to us.

Look at the restrictive trade practices of the Japanese and every other country in the world, and then understand why you have to do something to protect American jobs.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I think the editorial of yesterday in the New York Times and its headline aptly describes the bill as a job killer bill. I am quite serious about the amendment that I have offered, because I think it places in perspective what this legislation will do to the economy of this country and the economy of the world.

It has been said that if goods do not cross international boundaries, armies will. I think we should very soberly reflect on that assessment of history and learn from it. I ask the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken, and on a division (demanded by Mr. DANNEMEYER) there were—ayes 11, noes 18.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1500

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DANNEMEYER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 92, noes 301, answered "present" 3, not voting 37, as follows:

[Roll No. 457]

AYES—92

Archer	Gradison	Moorhead
Ashbrook	Gramm	Morrison
Atkinson	Green	Myers
Badham	Gregg	Pashayan
Bafalis	Hammerschmidt	Paul
Bailey (MO)	Hansen (ID)	Petri
Bereuter	Hendon	Pritchard
Bethune	Hiler	Quillen
Bliley	Hunter	Roberts (KS)
Butler	Hyde	Roberts (SD)
Chappie	Jeffries	Robinson
Cheney	Johnston	Rousselot
Clausen	Kemp	Rudd
Coats	Lagomarsino	Sensenbrenner
Collins (TX)	LeBoutillier	Shumway
Conable	Lent	Smith (NE)
Corcoran	Lewis	Smith (OR)
Craig	Livingston	Stangeland
Crane, Daniel	Loeffler	Stanton
Crane, Philip	Lowery (CA)	Stump
Daniel, R. W.	Lujan	Thomas
Dannemeyer	Lungren	Vander Jagt
Daub	Marlenee	Walker
Dornan	Martin (NC)	Weber (MN)
Dreier	McClory	Weber (OH)
Erlenborn	McCollum	Whittaker
Evans (IA)	McDonald	Winn
Fiedler	McGrath	Wolf
Fields	Michel	Young (AK)
Frenzel	Molinari	Young (FL)
Gibbons	Moore	

NOES—301

Addabbo	Conte	Foley
Akaka	Conyers	Ford (MI)
Albosta	Coughlin	Ford (TN)
Alexander	Courter	Fountain
Anderson	Coyne, James	Fowler
Andrews	Coyne, William	Frank
Annunzio	Crockett	Frost
Applegate	D'Amours	Fuqua
Aspin	Daniel, Dan	Garcia
AuCoin	Daschle	Gaydos
Bailey (PA)	Davis	Gejdenson
Barnard	de la Garza	Gephardt
Barnes	Dellums	Gilman
Bedell	Derrick	Gingrich
Beilenson	Derwinski	Glickman
Benedict	Dickinson	Gonzalez
Bennett	Dicks	Goodling
Bevill	Dingell	Gore
Biaggi	Dixon	Gray
Boggs	Donnelly	Guarini
Boland	Dorgan	Gunderson
Boner	Dowdy	Hall (IN)
Bonior	Downey	Hall (OH)
Bonker	Duncan	Hall, Ralph
Bowen	Dunn	Hall, Sam
Breaux	Dwyer	Hamilton
Brinkley	Dymally	Hance
Brodhead	Dyson	Hansen (UT)
Brooks	Early	Harkin
Broomfield	Eckart	Hartnett
Brown (CA)	Edgar	Hatcher
Brown (CO)	Edwards (AL)	Hawkins
Brown (OH)	Edwards (CA)	Heckler
Broyhill	Edwards (OK)	Hefner
Burgener	English	Heftel
Burton, Phillip	Ertel	Hertel
Byron	Evans (IN)	Hightower
Campbell	Fary	Hillis
Carman	Fazio	Hollenbeck
Chappell	Fenwick	Hopkins
Chisholm	Ferraro	Horton
Clay	Findley	Howard
Clinger	Fithian	Hoyer
Coelho	Flippo	Hubbard
Coleman	Florio	Huckaby
Collins (IL)	Foglietta	Hughes
Hutto	Napier	Siljander
Jacobs	Natcher	Simon
Jeffords	Neal	Skeen
Jenkins	Nelligan	Skelton
Jones (NC)	Nelson	Smith (AL)
Jones (OK)	Nichols	Smith (IA)
Jones (TN)	Nowak	Smith (NJ)
Kastenmeier	O'Brien	Smith (PA)
Kazen	Oakar	Snowe
Kennelly	Oberstar	Snyder
Kildee	Obey	Solarz
Kindness	Ottinger	Solomon
Kogovsek	Oxley	Spence
Kramer	Panetta	St Germain
LaFalce	Parris	Stark
Lantos	Patman	Staton
Latta	Patterson	Stenholm
Leach	Pease	Stokes
Leath	Pepper	Stratton
Leland	Perkins	Studds
Levitas	Peyser	Swift
Long (LA)	Pickle	Synar
Long (MD)	Porter	Tauzin
Lott	Price	Taylor
Lowry (WA)	Rahall	Traxler
Luken	Rangel	Trible
Madigan	Ratchford	Udall
Markey	Regula	Vento
Marks	Reuss	Volkmer
Marriott	Rhodes	Walgren
Martin (IL)	Rinaldo	Wampler
Martinez	Ritter	Washington
Matsui	Rodino	Watkins
Mattox	Roe	Waxman
Mavroules	Roemer	Weaver
Mazzoli	Rogers	Weiss
McCurdy	Rose	White
McDade	Rostenkowski	Whitehurst
McEwen	Roth	Whitley
McHugh	Roukema	Whitten
Mica	Roybal	Williams (MT)
Mikulski	Russo	Williams (OH)
Miller (CA)	Sabo	Wilson
Miller (OH)	Santini	Wirth
Mineta	Savage	Wolpe
Minish	Sawyer	Wortley
Mitchell (MD)	Scheuer	Wright
Mitchell (NY)	Schneider	Wyden
Moakley	Schroeder	Wylie
Moffett	Schumer	Yatron
Mollohan	Seiberling	Young (MO)
Montgomery	Shamansky	Zablocki
Motti	Shannon	Zeferetti
Murphy	Sharp	
Murtha	Shaw	

ANSWERED "PRESENT"—3

Bingham	Carney	Lundine

NOT VOTING—37

Anthony	Evans (GA)	Martin (NY)
Beard	Fascell	McCloskey
Blanchard	Fish	McKinney
Bolling	Forsythe	Pursell
Bouquard	Ginn	Railsback
Burton, John	Goldwater	Rosenthal
Deckard	Grisham	Schulze
DeNardis	Hagedorn	Shelby
Dougherty	Holland	Shuster
Emerson	Holt	Tauke
Emery	Ireland	Yates
Erdahl	Lee	
Evans (DE)	Lehman	

□ 1520

Mr. PARRIS changed his vote from "aye" to "no."

Mr. LUNDINE and Mr. CARNEY changed their votes from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

Mr. FLORIO. Mr. Chairman, I reserve a point of order.

Mr. FRENZEL. Mr. Chairman, I reserve a point of order.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER: Page 11, line 5, strike out "It" and insert in lieu thereof: "Except as provided in praragrapn (5), it".

Page 13, between lines 2 and 3, insert the following:

(5) Paragraph (1) shall not apply with respect to any vehicle manufacturer of Japan with respect to any model year if the United States deficit in the balance of trade in automotive products with Japan for the four calendar quarters most closely corresponding to model year 1982 is not greater as a percentage of the deficit in goods and services with Japan (as calculated on the basis of the Balance of Goods and Services published by the Department of Commerce) for the four calendar quarters most closely corresponding to such model year than the percentage specified in the following table:

	Automotive deficit as a percentage of goods and services deficit (percent)
Model year:	
1984	74
1985	86
1986	104
1987 and each model year thereafter	130

Mr. BROYHILL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

Mr. SCHUMER. Mr. Chairman, this amendment, which is entitled, "The Build It or Buy It Here Amendment," is an improvement of H.R. 5133.

I, like many Members in this House, are faced with a real dilemma on this bill. That dilemma is this: On the one hand, all of us see thousands and tens of thousands of autoworkers out of work. They are out of work for a variety of reasons, many having to do with the economy and general world trade situations, but certainly some have to do with the imports market. On the other hand, like many Members of this body, I am extremely reluctant to build walls, particularly when they are walls that will not present any real alternative to our trading partners because, as the debate on this bill has shown, when walls are built on one side, inevitably they are built on the other side, and the entire world suffers.

The thrust of the debate, my friend from New York, my friend from Michigan, distinguished Members of this body and the gentleman from Pennsylvania, have explicitly said less than a half hour ago that the purpose of the bill is to send a lesson to the Japanese, to tell the Japanese and others that they must open up their markets. I think that the main flaw in this bill is that it does nothing to force the Japanese to reduce their trade barriers. This bill would apply equally to the Japanese or any other country whether or not they act to reduce or even eliminate completely their trade barriers.

Were the Japanese to admit our products into their country as freely as we admit theirs into ours, this bill would still be in effect as our distinguished majority leader said, it sends a shot across the bow, a warning. The problem is that the bill contains no real warning. My amendment, very simply, says this: It says that this bill will take effect unless the balance of trade deficit with Japan shrinks, and shrinks markedly—by 50 percent—over the next 4 years.

Those Members who are from agricultural areas, those who are from areas where there is strong timber, telecommunications, computer, and electronics industries that are now stifled because the Japanese market is closed to them, those Members who are from ports or places where international transportation and trade are important, should be supporting this amendment because this amendment, not the bill as it stands, says to the Japanese, "Open up your trade barriers or this bill takes effect."

The bill as written does not. I am a cosponsor of this bill, but feel that the amendment I am offering makes it better. It makes the bill better for those of us who are cosponsors and better for those who oppose it.

It changes the bill from the one which barriers provide no incentive for the reciprocal reduction of trade into a bill that is truly a lever for free trade.

Many Members have said to me on the floor that this bill will not get beyond the House, so they can vote for it even if they do not think it's a good idea. Everyone who has spoken has stated that the main value of the bill is its message. If we want that message to be clear, if we want that message to really say, "Open up, let us really have free trade," then this amendment should be adopted as part of H.R. 5133.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I want to commend the gentleman from New York. I think he has an excellent amendment here, because what this amendment does is, it puts an incentive there for the United States and Japan to enter into more meaningful negotiations, not only on autos, but for beef and a lot of other things that have an impact on many of us who are concerned about agricultural exports also. So, I am going to support the gentleman. I think it is an excellent amendment.

Mr. SCHUMER. I thank the gentleman from Illinois.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Iowa.

□ 1530

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I just want to join with my colleague, the gentleman from Illinois, in complimenting the gentleman from New York (Mr. SCHUMER) for offering this amendment. This really is the essence of what we are all about. This is what we want to do. We do not want to build walls and barriers.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHUMER) has expired.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. SCHUMER) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, I am going to insist on my point of order.

The CHAIRMAN. Does the gentleman object to additional time for the gentleman to complete his statement on the amendment?

Mr. BROYHILL. I do not object to that, Mr. Chairman.

The CHAIRMAN. The Chair will protect the gentleman's reservation on his point of order.

Mr. BROYHILL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, will the gentleman yield further?

Mr. SCHUMER. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, to continue, what the gentleman from New York is saying is, look, it is not so much that we want to build these walls. We would be happy if the Japanese would simply reduce the surpluses a little bit.

If they would just reduce their surpluses, it would mean that we could export a little bit more to them and put more of our people to work.

As the gentleman knows, I represent an agricultural area. They have erected barriers to certain agricultural products that we produce. If they would buy more, let me point out what our farmers would do. They would buy more tractors and more pickups made by those very same auto workers who are out of work today.

Mr. Chairman, I think the gentleman is proceeding with exactly the right method, and I think this is a great amendment.

Mr. SCHUMER. Mr. Chairman, I would just add a point before yielding to the gentleman from Pennsylvania, and that is that this bill requires very substantial reductions in Japan's trade barriers and an increase in imports by

Japan. This is not minor. The amendment would require that the balance of goods and services deficit with Japan be reduced.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Mr. Chairman, I rise to commend the gentleman from New York (Mr. SCHUMER) for offering his amendment, and I rise in support of the amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to compliment the gentleman from New York (Mr. SCHUMER).

I have the same reservations that he has expressed about this legislation, coming from an area that has a port. I think the more we can do to make this truly a bill that sends the Japanese a message that we want fairness in our trade relationships, the more supportive this legislation becomes, because all of us are aware that this bill is not going to be signed into law, but its value is in sending a constructive message. I think the gentleman has made a very important contribution.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Washington (Mr. DICKS).

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

As I understand it, the gentleman had two amendments?

Mr. SCHUMER. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHUMER) has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. SCHUMER was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the gentleman's description on the floor would describe the amendment that I understand he did not offer, the one which has to do with the general balance of trade with Japan. The amendment that he did offer, as I understand it—and I would like to know if this is correct—only has to do with the balance of trade in automobiles.

Is this amendment restricted only to balance of trade in automobiles?

Mr. SCHUMER. Mr. Chairman, in answer to the gentleman, I had two amendments at the desk. The amendment that I have offered relates the trade deficit in automotive products to the overall deficit in goods and services, and would state that unless the overall deficit declines by 50 percent over 4 years, the penalties specified in the bill will take effect. Because the relationship between these two numbers is expressed as a percentage, the formula is keyed to the automobile balance of trade.

Mr. OTTINGER. Does it have an effect on overall trade?

Mr. SCHUMER. Well, anything does. H.R. 5133, without my amendment, has an effect on overall trade.

Mr. OTTINGER. No; I want to know if the formula the gentleman has advanced is tied solely to the automobile balance of trade or whether it is tied to the overall balance of trade?

Mr. SCHUMER. The formula I have adopted relates the automobile balance of trade in 1982 to the overall balance of trade in goods and services, and requires that the percentage obtained by dividing the former by the latter must increase. By fixing the numerator at the deficit in automobile trade in 1982, the bill thus requires that the balance-of-trade deficit in overall goods and services must decrease.

POINT OF ORDER

Mr. BROYHILL. Mr. Chairman, may I state my point of order?

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York (Mr. SCHUMER) on the ground that it goes beyond the purposes of H.R. 5133 and is thus not germane.

The gentleman's amendment attempts to address trade matters that are not addressed by the bill before us. The bill that is before us seeks to address domestic car content requirements.

Specifically, Mr. Chairman, the gentleman's amendment would make the enforcement provisions of the bill contingent upon a determination of the balance of trade in automotive products versus the relative balance of payments of other goods and services, and when we bring in the other goods and services, I maintain that that goes far beyond the scope of the legislation.

It also places additional responsibilities on the Secretary of Transportation on trade issues which are not within his authority.

In previous rulings, the Chairman of the Committee of the Whole House on the State of the Union has previously ruled that an amendment changing the statement of policy contained in a bill is not in order if its effect is to fundamentally change the purpose of the bill. That is found in Deschler's Precedents, chapter 28, section 4.16.

So, Mr. Chairman, I insist upon my point of order that the amendment goes beyond the purposes of H.R. 5133, that it is not germane and, therefore, is out of order.

Mr. FRENZEL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. Does the gentleman from New York (Mr. SCHUMER) wish to respond to the point of order?

Mr. SCHUMER. Yes, Mr. Chairman, I wish to respond, but I would first defer to the gentleman from North Carolina.

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL), then, is recognized pursuant to the point of order.

Mr. FRENZEL. Mr. Chairman, I support the point of order that has been claimed by the gentleman from North Carolina (Mr. BROYHILL).

It is quite clear that the amendment has been redrawn in an attempt to fit our rule XVI, clause 7. That is the rule of germaneness. It is also quite clear, as demonstrated by the gentleman from North Carolina, that it does not succeed.

The bill that is before us, H.R. 5133, is a bill that refers only to domestic manufacture within the United States. The amendment offered by the gentleman from New York (Mr. SCHUMER) seeks to impose a regimen against exports based on a measure of automotive imports which is beyond all normal competence of the Secretary of Commerce, who is the only individual noted in H.R. 5133.

In addition, there would have to be a determination of the total scope of our balance of trade with the country of Japan. The denominator of the gentleman's faction is the total balance of trade between our country and Japan, and it goes far beyond the intent of the original bill, which deals with domestic manufacture, and gets into the whole field of trade, which is beyond the jurisdiction of the committee that is bringing us this bill.

Mr. Chairman, the point of order should be sustained. The amendment is clearly beyond the scope of the bill.

Mr. BAILEY of Pennsylvania. Mr. Chairman, may I be heard?

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. BAILEY) wish to be heard on the point of order?

Mr. BAILEY of Pennsylvania. Yes; very briefly, on the point of order, Mr. Chairman.

I think that the point made by the gentleman from Minnesota (Mr. FRENZEL) is correct. The jurisdiction in this bill lies in the Committee on Interstate and Foreign Commerce. We have talked about this bill in the context of trade because it has that effect.

The gentleman's amendment is a trade issue amendment, the jurisdiction of which would clearly lie in the Committee on Ways and Means, and the points raised by the two previous gentlemen are correct. Jurisdiction

does not lie, and the point of order should lie.

□ 1540

The CHAIRMAN. Does the gentleman from New York wish to be heard on the point of order?

Mr. SCHUMER. If I might respond to the point of order, Mr. Chairman, the amendment was drawn to relate to the narrow area of automobiles and automobile content as well as automobile trade. The bill before us deals with automobile trade.

Just to look at one point, page 4 deals with vehicles manufactured by a vehicle manufacturer in the United States and exported from the United States. That is clause 1.

Clause 2 also deals with vehicles manufactured in the United States and exported from the United States.

Furthermore, what we were told in terms of germaneness was that what we had to deal with was automobiles and the fraction that we used deals with automobiles making it clearly germane.

The gentleman from North Carolina, the gentleman from Minnesota, and the gentleman from Pennsylvania might have an argument if, this bill dealt with or this amendment specifically related to general trade. But it does not. It relates to automobile trade.

Furthermore, I might say the gentleman in objection to this have said this amendment has an effect on trade. So does the bill.

What is the debate we have been listening to for the last 2 hours? Authority for the issue of germaneness is not the effect that the amendment would have but specifically are the words of the amendment germane to the bill.

The bill deals with automobiles and automobile manufacturing. The amendment deals with automobiles and automobile manufacturing, but here in this country and for export and, therefore, I would argue that the amendment is indeed germane.

The CHAIRMAN. Is there any further discussion on the point of order?

Does the gentleman from Michigan (Mr. DINGELL) wish to speak on the point of order?

Mr. DINGELL. Mr. Chairman, the germaneness rule is the purpose and the basis of the point of order.

First of all, the amendment must be germane to the bill. I would observe that there are a number of tests.

The first which has been referred to is the question of committee jurisdiction. Here we have an amendment which relates to trade, balance of trade, figures relative to trade, and a question relative to suspension of imports.

Clearly that kind of an amendment would have compelled this legislation to have been referred to the Committee on Ways and Means.

The bill was referred to the Committee on Energy and Commerce because it deals with Interstate Commerce.

The amendment must also be germane to the committee substitute. It fails again on the basis of this test.

The question then is: Does the amendment meet any of the other tests and I submit to the Chair that it does not.

The amendment does not relate as required under section 3 of title XXVIII of Deschler's, does not relate to the subject under consideration.

The subject under consideration relates to interstate commerce.

The amendment relates to international commerce. Clearly the subject matter is different and the amendment again fails.

There is yet another test and that is the fundamental purpose of the amendment test under section 5. Obviously again the fundamental purpose of the amendment must relate to the fundamental purpose of the proposition to which it is offered.

The fundamental purpose of the committee substitute is to establish standards for the trade in interstate commerce of automobiles and automobile parts. Here it is clear that the amendment again relates to international trade and it requires a series of findings which are nowhere found wherein a series of calculations dependent on international trade and deficits, none of which are mentioned anywhere in the legislation.

Last of all, the amendment fails the requirements of section 6 of Deschler's wherein the test is does it accomplish the result of the basic legislation by the same or similar means. Here it is very clear that under the bill the evil to be dealt with is the difficulty with regard to jobs and it is dealt with through the interstate commerce powers of the Constitution and of the Congress.

The amendment would deal with the problem of international trade by relating automobile sales to international trade deficits of the United States, two very distinct and different matters.

For that reason, Mr. Chairman, I submit that the amendment is not germane to the bill and fails on grounds of germaneness.

Mr. SCHUMER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. Does the gentleman wish to respond?

Mr. SCHUMER. If I might respond to my distinguished, erudite colleague from Michigan, to say that the bill does not deal at all with, in the terms and the wording of the bill, and as I understand it, my brief years here have led me to understand that it is the words of the bill, not its effect or anything else that relates to germaneness.

Let me keep reading words of the bill to show that the bill deals not just with interstate commerce but with international commerce. Let me read page 4 where a vehicle is defined as "manufactured by the vehicle manufacturer in the United States and exported from the United States by, or on behalf of, such manufacturer during that model year."

Page 4, line 6, "• • • manufactured in the United States by any other person and purchased by the vehicle manufacturer and exported from the United States by, or on behalf of, such manufacturer during that model year, but only to the extent that the export value of such automotive products is not included in automotive products to which clause (i) applies."

Someone, by the way, must estimate the value of those products as well, as well as estimating value in my amendment.

Throughout the bill, those are just two clauses, but throughout the bill are arguments, words, discussions that relate not just to automobiles domestically within the United States but automobiles exported.

Furthermore, the bill is explicit. It sets different classifications for automobile parts that are manufactured within the United States as opposed to automobile parts that are manufactured outside of the United States.

To say that the bill only deals with what happens within the United States is incorrect. The bill deals with what happens within and without. Albeit related to automobiles, the amendment deals with what happens within and without but related to autos as well.

Therefore, I would ask the Chair for a ruling that this amendment is indeed germane. To say that it is not germane might really fly in the face of the entire debate we have been having for the last 2½ hours and of last Friday.

The CHAIRMAN. Is there any further discussion on the point of order?

Does the gentleman from Florida (Mr. GIBBONS) wish to be heard on the point of order?

Mr. GIBBONS. Mr. Chairman, the Ways and Means Committee does not want any of this discussion to overcloud the fact that this bill affects revenue, that this bill is enforced through the tariff laws of the United States.

The Ways and Means Committee recognizes this bill for what it is. We should have had original jurisdiction of the bill. It should not have been only sequentially referred to us but for an accident of historic proportion.

I wanted the record to accurately reflect that because I do not want anybody to think that this bill was properly referred in the beginning.

Mr. DINGELL. Could we have regular order, with all respect to my friend? We are not talking about historical accidents.

The CHAIRMAN. The Chair is having regular order and the gentleman from Florida was speaking on the point of order.

Had the gentleman from Florida completed his statement?

Mr. GIBBONS. I am all through, Mr. Chairman.

Mr. OTTINGER. Mr. Chairman, may I speak on the point of order?

The CHAIRMAN. The gentleman from New York.

Mr. OTTINGER. The gentleman should not be allowed to do by indirection what he could not do directly. The denominator that is specified in this bill depends on the general trade percentage of deficit in goods and services with Japan generally. It has nothing to do with automobiles. That is clearly not only beyond the jurisidiction of this committee but also outside of the scope of the bill and, therefore, the point of order should be sustained.

□ 1550

Mr. FRENZEL. Mr. Chairman, may I be heard further?

The CHAIRMAN. (Mr. PANETTA). The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, in "Jefferson's Manual and Rules of the House," by William Holmes Brown, it states, under rule XVI, that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The fundamental purpose of the bill is described in the first page of the bill. And it says that the purpose is to encourage the production of automotive products in the United States.

The fundamental purpose of the Schumer amendment is quite different. Its fundamental purpose is to encourage behavior of exporters in another country.

The fundamental purpose of the bill and of the amendment of the gentleman have no relationship whatsoever.

The point of order should be sustained.

Mr. SCHUMER. Mr. Chairman, simply to respond, the fundamental purpose of my amendment is for me and for others to interpret. The fundamental purpose of this bill some might say is different. We all know that the ruling of germaneness relates to the wording of the bill and what the bill exactly relates to, what is germane and what is not germane.

I submit that this amendment is every bit as germane to this bill as so many rulings of germaneness throughout the House. Whether the sponsors of the bill and the opponents of the bill—I must be doing something right, given that the sponsors and the opponents both want it ruled out of order and seem to be opposed to the legislation—agree with what would happen as a result of this bill is not an issue of germaneness. What it is, is what the bill deals with and what the amendment deals with. I submit they deal with the same thing.

The CHAIRMAN. (Mr. PANETTA). The Chair is prepared to rule.

Under the general rule of germaneness, the test of an amendment is whether there is a relationship to the subject matter of the bill.

This bill requires a certain percentage of domestic content in the automobiles that are sold in this country.

The amendment provides that that requirement is not applicable during periods when the balance of trade in automotive products bears a certain relationship to overall trade; therefore, the amendment is confined to the subject of trade in automotive products and is not an unrelated contingency involving the overall balance of trade.

In Canon (VIII, 3029) an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when that fact to be ascertained relates solely to the subject matter of the bill.

In the opinion of the Chair, the amendment conditions the implementation of the domestic content requirement upon a certain test, a certain factual situation.

It relates to the general subject matter of the bill, imposes a germane condition, and, therefore, the point of order is overruled.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure the gentleman from New York offers the amendment in the best of good will and in an honest attempt to perfect the bill. Regrettably, there appear to be some drafting problems with the amendment offered by the gentleman from New York.

The bill attempts to deal with the subject of sales of automobiles in interstate commerce. The amendment would set up a formula upon whose action the provisions of the bill would be suspended. The amendment creates a ratio which attempts to see if there is an improvement in the balance of trade.

Now, the consequences of the ratio are very interesting. First of all, the numerator is equivalent to the deficit in United States-Japan automobile trade in production year 1982. The denominator is the deficit in goods and services in the year in question. Today the ratio would read like this: $13 billion, which is the auto deficit in 1982 with Japan, over $20 billion, the deficit in goods and services with Japan, which is the denominator.

Today this ratio is 65 percent.

Let us look now to the ratio in the future and see how it works. The numerator is always the 1982 auto deficit. So it is always $13 billion. Now, that means if the deficit of the United States with the Japanese shrinks, then the denominator shrinks and we wind up with a rather unique set of circumstances. By reason of the way that the amendment is drafted, it means that on the shrinking of deficit, it becomes likely that the import of Japanese autos and goods would be shut off.

Now, let us look and see what happens if the trade deficit in goods and services with Japan improves. Let us take the figure of a $5 billion deficit with the Japanese in goods and services. The ratio then would be $13 billion of $5 billion. That is then 260 percent, which is greater than that specified in the table for any year.

As I read the amendment, it provides that a percentage exceeding that in the table means that the requirements of the bill do thus apply.

Therefore, it follows, from a reading of the amendment as drawn by my good friend, and the gentleman from New York, that the smaller the deficit in goods with the Japanese, the more likely we are to have the provisions of the legislation with regard to domestic content apply.

Therefore, this encourages the Japanese to increase their balance of trade in favor of the Japanese, which is precisely the opposite of the result that the gentleman from New York would have us believe is the purpose of the amendment.

So if you favor encouraging the Japanese to make every effort to increase their balance of trade in favor of themselves and to practice exclusionary tactics and dumping of goods in this country, then you should, at all costs, support the amendment. If you oppose that kind of direction, then, by all means, oppose the amendment.

I am sure the gentleman offered this in very good faith, and I am certain that he fully intends the consequences of the amendment. But I certainly cannot support it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. SCHUMER. The gentleman brings out a good point. And as somebody who is not inimical to his purposes, overall purposes in 5133, I accept the point as well taken. In fact, the gentleman from New York, speaking of himself, in his effort to make sure the amendment was germane, inserted a word that ought not to be inserted. The word is on line 5, "not."

I would ask unanimous consent——

Mr. DINGELL. I thank the gentleman. I simply cannot yield further.

Without all respect, the time is mine, and I would advise the gentleman that I cannot yield any further.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman from Michigan yield?

Mr. DINGELL. I yield briefly to the gentleman to gainsay anything that I have said. Is my interpretation of the gentleman's amendment correct?

Mr. SCHUMER. I would say that I would ask unanimous consent right now to strike the word "not" from line 5, because the numerator and denominator is indeed in reverse, as the gentleman from New York has pointed out. I would ask unanimous consent——

Mr. DINGELL. With all respect to the gentleman, I object. And the reason I do so is that I would like to see the amendment so that we may then analyze it and know exactly what it is that the gentleman intends.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SCHUMER. If the gentleman will yield—

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

Mr. SCHUMER. Then I move an amendment——

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. BAILEY).

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Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will not take all my time because I know the gentleman from Arkansas has been waiting patiently.

I would hope that we do not support this amendment. I really do not think if the gentleman is successful in somehow modifying it, and with great deference to the intelligence and insight of the gentleman from Michigan, I applaud him on his catching this error—if the gentleman from New York does succeed in modifying the amendments, and I would encourage the opinion of the gentleman from Minnesota (Mr. FRENZEL)—if the gentleman from Minnesota (Mr. FRENZEL) would perhaps take the mike, I would be very grateful.

Mr. FRENZEL. I would be delighted.

Mr. BAILEY of Pennsylvania. The gentleman in his analysis of this amendment as I read it, if one looks at the formula for the numerator and the formula for the denominator in light of projects on relative currency values between the United States and Japan, although I very much oppose this amendment, given this formula and looking at the gentleman's model year computation, 1984, the automotive deficit, percentage of goods and services deficit, the relationship to the overall trade deficit, employs a figure of 74 percent, can the gentleman imagine the overall trade balance moving down—I am just curious—within the next 2 or 3 years?

Mr. FRENZEL. If the gentleman will yield, it is quite obvious that the gentleman from New York has a typo in his formula, and therefore it is a formula where the Japanese have an incentive to develop a greater surplus and to give us a greater deficit.

But I would say further that the gentleman illustrates one of the problems with a table like this, because currency fluctuations could change the best intentioned table and knock it out of the box in a couple of days.

So if he is allowed to perfect his amendment, we will still not know what the amendment means because of currency fluctuations. The gentleman has made an excellent point.

Mr. BAILEY of Pennsylvania. I thank the gentleman.

I hope that the Members of the House will recognize that the intentions of the amendment, the intentions of the gentleman are laudable, but as a practical matter I would hope we would understand the implications of the amendment, its weaknesses, and even should the gentleman succeed in having it changed, that we not support it.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would advise the Chairman when the committee goes back into the full House that I will ask unanimous consent to include extraneous matter at this point in the RECORD.

Mr. Chairman, I rise in support of the domestic content bill which would impose trade restrictions on import of Japanese automobiles. This legislation has been called protectionist over and over and over again. And I shall point out that I am not a protectionist by nature. But let me be quite frank.

In endorsing this bill I am not voting for protection. I am voting for retaliation.

I do not want to mince words.

In 1980 the Japanese pursued an undeclared war on the American rice farmer, and they should be reminded of the laws of nature, that for every action there is an equal and opposite reaction.

To put that in plain English to our trading partners: If the Japanese or anyone else should strike at us, and at the economic welfare of our citizens, then we shall strike back.

Now, I regret that we have reached such a crisis point, but reach it, indeed, we have.

I would remind the Members of Congress specifically of the hostile action taken by Japan recently against the American farmer.

In 1980 the Japanese chose to dump about a million metric tons of rice on the open market, selling it to selected customers like Korea and Indonesia at prices far below the prevailing world market price.

Although this action was acquiesced in by the Carter administration, Japan thereby violated the solemn treaties that had been entered into between our Nation and theirs, including the MTN, GATT, and the subsidies code of the FAO.

An immediate and lasting consequence was a severe financial loss and a continuing hardship to the American rice farmer.

The administration has confirmed to me that the deficiency payments paid by the American taxpayers as a result of this action exceed $600 million, and the profits lost to the rice industry another $600 million. Over a billion dollars the Japanese cost the American people because of their undeclared war on the American rice farmer.

And the disaster which afflicted farm prices as a result of this Japanese action was compounded later by another trade partner, Korea, when it agreed to purchase American rice by way of mitigation in order to offset some of this loss. But as of this date, Korea has yet to fulfill its solemn commitments to bring some measure of justice to these problems.

So it is not the Japanese alone that I seek to serve notice to tonight. It is all of our trading partners who should put us at a disadvantage—we should put them on notice, too, that we shall retaliate.

Mr. Chairman, I would remind the Members of this body once again that I am a free trader by history and by instinct. I helped organize the Export Task Force, and for 4 years I have served as a member of the President's Export Council. But there comes a time when our own preferences and personal philosophies become secondary to our national interest, and to the interest of our constituents whom we serve. And I believe that the time is long overdue when Congress must say: Enough is enough. And we have the opportunity in this bill.

We should make it known that Congress, speaking for the American people, has a clear determination and a firm resolve to pursue not only the principles of free trade, but the reality of fair trade.

Mr. Speaker, I include the following documents which pertain to the lengthy negotiations we have conducted with the Japanese concerning our rice exports:

REPORT ON MEETING WITH PRIME MINISTER OHIRA.

Mr. ALEXANDER. Mr. Speaker, I had the pleasure this morning of having breakfast with and conferring with the Japanese Prime Minister Ohira. On this occasion I advised the Prime Minister that jobs in rice-

producing States, like Arkansas, are threatened by the Japanese policy of dumping rice onto the international market. I also advised the Prime Minister that representatives of the U.S. Government and Japanese Government have tentatively entered into an agreement which would compromise the principles of the General agreement on Tariffs and Trade, the multilateral trade negotiations and the FAO. I asked Prime Minister Ohira if he supported the principles that are enumerated in those three international agreements on free trade. I have asked for permission from the Japanese Embassy to include his remarks in the RECORD. Meanwhile I would advise my colleagues that if representatives from our Government and the Japanese Government can compromise international treaties on rice, they can also compromise those principles for steel, automobiles, electronics or any of the products that are produced in the numerous congressional district that are represented in this body.

The actions taken by the administration compromise the international trade principles presents an ominous sign for those of us who support international trade. The implications of compromising the international trade principles for one product such as rice could affect all industry that manufactures products for international trade.

During the 12 years I have served in Congress I have supported the policy of my Government to favor free trade and to oppose Government interventions that may distort the free world market. Most Americans have judged that protectionism usually rewards inefficiency at a high cost to taxpayers.

Despite the desire for free trade, representatives of the executive branches of the Governments of the United States and Japan have tentatively agreed to sanction the Japanese subsidized rice export policy. The Japanese rice policy provides a domestic export subsidy to rice farmers of about $1,000 per metric ton. The agreement sanctions that policy and calls for Japan to limit its exports of subsidized rice to an average of 400,000 metric tons per year over the period of 1980—83. It sets maximum annual exports to South Korea, Indonesia, and other countries.

The tentative agreement between the United States and Japan to sanction the Japanese rice-dumping policy may crack the foundation of international trade as enumerated by the GATT, MTN, and the FAO.

The Japanese rice export subsidy policy is unfair for the following reasons:

First. Article XVI (3) of the General Agreement on Tariffs and Trade (GATT) prohibits subsidies resulting in a contracting party having "more than an equitable share of world export trade;"

Second. The United National Food and Agriculture Organization (FAO) principles for disposal of agricultural surpluses provide that surpluses should be moved into consumption without harmful interference with the normal patterns of production and international trade; and

Third. Section 301 of our Trade Act of 1974 proscribes the granting of subsidies on exports "to other foreign markets which have the effect of substantially reducing sales of other competitive U.S. products * * * in foreign markets."

In the Tokyo round of the multilateral trade negotiations, the United States and Japan—and a host of other countries—agreed to a Subsidies Code. This Code obligates its signatories to avoid export subsidies on primary products that give them more than an equitable share of the world export trade in those products. Export subsidies on other items are banned altogether.

I do not believe there is much room for doubt that the Japanese rice subsidies violate the Subsidies Code. And yet our Government—in its first test of the code—has failed to insist upon its legal rights. We allowed Japan to continue to dump rice into the world market, displacing our own sales and lowering our own export prices. We did not ask that the illegal subsidy program be abandoned.

Mr. Speaker, if we are willing to tolerate a subsidy on Japanese rice, I wonder what will be next. No doubt there are many agricultural commodities that our trading partners hold in surplus and which could be sold for export at cutrate price. It now seems not to be counter to the trade policies of this administration to allow other nations to dispose of surpluses in such a way.

The immediate problem is more likely to occur in the industrial sector. Our action—or our inaction—concerning subsidies on Japanese rice is a clear message to producers of steel. That message is that so long as export subsidies are large and audacious enough, U.S. efforts will be aimed at their containment, not their elimination.

Foreign steel manufacturers have been the targets of antidumping and countervailing duty petitions. They have been placed under the control of the trigger price mechanism. It has been the consistent and official policy of our Government that steel prices should reflect the legitimate cost of production with a reasonable allowance for profit. Foreign producers should not enjoy price advantages that stem not from their efficiency, but from the wealth and generosity of their Government.

Mr. Speaker, Japan has an enormous overcapacity for steel production. What would we do if the Japanese Government were to begin the massive resale of surplus steel production at a small fraction of first cost? And what would we do if export terms were better than any available commercially?

If the rice agreement is a precedent, we would treat Japan as if subsidies were a normal and proper technique in international trade. We would not flinch as American industry suffered from lowered U.S. prices and from displaced U.S. sales.

The argument is often made that export subsidies merely transfer economic hardships from the subsidizing state to the injured state. This is absolutely correct, and describes the effect of what the Japanese are doing. It is all the more reason why we must stand fast in our traditional free trade policies.

The United States cannot afford to stand idly by as we are pushed into the role of residual supplier of one commodity after another. American farmers, workers, and businesses largely supported the Codes emerging from the multilateral trade negotiations because of their conviction that a firm and fair set of rules helps all the players.

Mr. Speaker, there is no doubt in my mind that the U.S. rice industry has already been seriously injured by largescale dumping of Japanese rice. The addition to world supply has lowered prices and displaced U.S. sales. It will inevitably bring about a decline in U.S. production, with losses of revenue not only to farmers but to millers, transporters, and exporters.

Japan's own domestic policies are the cause of these injuries. It is said that Japan will hold rice stocks reaching over 7 million metric tons later this year. By way of contrast, the entire world export trade in rice is only 11 million metric tons annually. Evidently the threat of illegal acts on a truly enormous scale has persuaded American negotiators that we must tolerate a little illegality.

If this is the position of the U.S. Government, then our credibility next time a foreign surplus interferes with our trade will be low. The potential consequences of allowing the dumping of steel into third country markets—in terms of unemployment, our balance of payments, and our domestic economic health in general—require us now to avoid creating such a precedent.

Mr. Speaker, rice is grown in six States. It is among this country's most important agricultural exports. If our Government does not insist that international obligations be observed with respect to such a major commodity, we will begin our descent leading to the total abandonment of all firm principles of international trade.

This is a matter that should be of concern to all Americans. It is not too late to reverse our course. The agreement of April 12, 1980, between the United States and Japan must be overhauled and must be made consistent with our traditional international commitments.

Thank you. (C. R. Vol. 126, May 1, 1980).

Mr. Chairman, at the invitation of the former U.S. Trade Representative, Ambassador Reubin Askew, I accompanied our negotiators to Tokyo in April 1980 to discuss the problem of subsidized rice exports from Japan. Our delegation was led by the Under Secretary of Agriculture, Dale Hathaway, and included Tom Hughes and other personnel from the U.S. Department of Agriculture as well as the American Embassy in Tokyo. I take this opportunity to report to my colleagues on what happened at the rice meetings in Tokyo, and what it might portend for U.S. trade policy and the future of the United States-Japanese trading relationship.

The purpose of the meetings in Tokyo was to discuss the Japanese rice export problem—not to conclude an agreement that seriously undermines the competitive potential of the U.S. rice industry and weakens the fabric of the accords that were recently concluded in the Multilateral Trade Negotiations (MTN). Yet that is precisely what happened. The agreement concerning Japanese export subsidies concluded on April 12, 1980, while it does contain some useful aspects, ignores our vital interests and our established export trade policy and I will oppose its implementation administratively and in litigation which will be forthcoming.

The U.S. rice industry filed a complaint against Japan's rice export subsidy policy on April 4, 1980, under section 301, of the Trade Act of 1974. In my opinion, this complaint was supported by the weight of available evidence and should have been vigorously pursued and resolved affirmatively in favor of the U.S. rice industry.

However, the matter was resolved by negotiation and settled among the parties when the Republic of Korea agreed to mitigate the damages to the American rice farmer as follows, to wit:

THE KOREAN COMMITMENT TO PURCHASE U.S. RICE

In April, 1980, the Rice Millers' Association (RMA) petitioned, under Section 301 of the Trade Act of 1974 as amended, for steps to be taken to halt the dumping of heavily-subsidized rice by Japan to the Republic of Korea, a traditional cash market for U.S. rice. RMA contended that such sales were in violation of the Subsidies Code negotiated during the Tokyo Round of Multilateral Trade Negotiations, and that their results would be the displacement of sales of unsubsidized rice by the United States to Korea, along with a general lowering of world market prices.

As a result of RMA's submissions, the United States and Japan agreed that dumping of subsidized Japanese rice would be sharply limited, and in particular to Korea. The agreement allowed for these limits to be waived by the United States in the event of a genuine food emergency.

In December of 1980, without clearly determining the existence of an actual food emergency or ascertaining whether United States rice was available for shipment to Korea, the previous U.S. Administration extended an exception to the U.S./Japan agreement, allowing Korea to purchase up to one million metric tons of subsidized Japanese rice. This request was acted upon in the face of a record 1980 U.S. rice crop. RMA protested vociferously, arguing that U.S. rice farmers would respond to the large Korean demand by planting an even bigger rice crop in the spring of 1981, to be marketed during the period August 1981–July 1982. RMA strongly contended that United States rice would be supplanted by Japanese rice at great cost to the U.S. rice farmer, and ultimately, to the U.S. Government. These protests went unheeded; 750,000 metric tons of subsidized rice were sold by Japan to Korea, to be shipped by August 31, 1981. The Japanese rice was not only heavily subsidized but was sold on concessional loan terms with only 2-3 percent interest rates.

Congressional expressions of concern led to February 26, 1981 hearings before the Cotton, Rice and Sugar Subcommittee of the House Committee on Agriculture. During those hearings, Administration witnesses from the Departments of State, Agriculture and the U.S. Trade Representative's Office indicated that the Government of Korea had committed itself in writing to mitigation of at least some of the injury caused to the United States by the emergency exception to import Japanese rice. The purpose of this commitment was to protect the opportunity of the United States to market its 1981 crop during the August 1981–July 1982 marketing year. The commitment was a pledge by the Government of Korea to buy 500,000 metric tons of California rice from the 1981 crop.

On January 22, 1982, the Republic of Korea issued a tender for 370,000 of those 500,000 metric tons. The tender called for bids to be taken on February 12, 1982. It provided for shipment between July and November, 1982. It was therefore outside the terms of the commitment given by the Korean government, and cited as binding upon them by Administration officials during testimony at the February 26, 1981 congressional committee hearings. It has at all times been understood by the industry that shipment of this rice had to be accomplished by July 1982. In a February 2, 1981 meeting between high-level State Department officials and the Deputy Prime Minister of Korea, the terminal shipping date mentioned by the State Department was August 1982. It appears that the August 1982 date has now become the U.S. government position on when the commitment should be purchased and shipped. This is a significant concession on the part of the U.S. government.

In the wake of U.S. rice industry protests that the July-November 1982 shipment date was outside the terms of the commitment, the Korean government withdrew its tender, proposing to buy the 370,000 MT prior to August 1982 if it were permitted to store the purchased rice in California for eventual shipment to Korea as late as early 1983. This proposal too is unacceptable because it does not fulfill Korea's commitment and because of the unavailability of storage space in California. If shipment were delayed beyond August 1982 and large quantities of 1981 crop rice choke up available storage space, then California rice harvested during September/October 1982 would be displaced. If this occurs, USDA estimates that the cost to the U.S. Treasury for 1983 deficiency payments, loan forfeitures, and storage would range $85-150 million. In addition, farmers' 1982/83 income would be adversely affected.

Already, the emergency exception granted to Korea has been a disaster for the industry and for the taxpayer. RMA estimates that, absent the exception, Korea would have purchased one million metric tons of American rice in 1981/82. These lost sales caused the market price to fall up to $2 per hundredweight lower than it would otherwise have been, for a loss of $370 million. Adding carrying charges, storage costs, and interest, it can be estimated that the loss to the industry has already been $400 million.

And that is not all. Thirteen million hundredweights of 1981/82 California rice have been placed in the U.S. Government loan program, representing a potential net outlay of $104 million, plus costs of carrying and storage. Deficiency payments for the 1981 crop would not have been necessary had the Korean exception not been granted. In addition, our farmers would not have been urged by USDA to reduce 1982 rice acreage by 15 percent, threatening a shortage of rice during the next years in the event of genuine food emergencies.

The Korean exception has already been a catastrophe for the U.S. rice industry and for the U.S. Government. It is crucial that, in order to avoid even further injury, the U.S. Government now firmly insist that Korea adhere to the terms of its January, 1981 commitment: that is, to buy and ship 500,000 MT of 1981 California rice no later than August 31, 1982. In order for this to be accomplished the government of Korea must issue a tender and purchase the commitment within the next few weeks. Actual shipments must begin no later than April 1982.—The Rice Millers' Association.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, Japan and such other nations as offered against fair trade must understand that our patience as Americans is limited, and that, while we have a tradition for fair play, we expect our trading partners to play fair as well.

Now, there has been a lot of talk around here and across this Nation for several years. It is now time to put our votes together with our rhetoric and to say to the Japanese and to other trading partners that there is no doubt where this Congress stands.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Indiana.

Mr. COATS. I thank the gentleman for yielding.

I wonder if the gentleman could clarify something for me. I received in my office a letter urging my opposition to this bill, and it was signed by the Rice Millers Association. How does that relate to what the gentleman was saying in terms of the Japanese stealing our rice markets?

Mr. ALEXANDER. The rice Millers are not rice farmers. I speak tonight for the rice farmers, the farmers who have paid the price for this undeclared war that has been imposed upon them by Japan.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I would simply like to associate myself with the gentleman's remarks. We are from different parts of the country but we both share a concern for the future of the American rice industry and today that industry is in depression. It is in depression because of the dumping the Japanese Government engaged in several years ago. It has caused a glut in the world rice market that stretches out before us as far as we can see.

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That glut is the result of subsidies gained by Japanese agricultural interests ever since World War II. We are used to thinking in terms of the Japanese industry as modern and productive, and yet in agriculture it is just the opposite.

American interests, particularly those on the west coast, those that deal in the Pacific basin, have been vastly limited by this protectionism of the Japanese.

The CHAIRMAN pro tempore. (Mr. BARNARD). The time of the gentleman from Arkansas has again expired.

(At the request of Mr. FAZIO and by unanimous consent, Mr. ALEXANDER was allowed to proceed for one additional minute.)

Mr. FAZIO. Mr. Chairman, if the gentleman will yield further, American interests have been vastly limited

by the protectionism that the Japanese agricultural interests engage in with political Japanese life in the Diet.

We have seen a malapportioned Japanese legislative body continually protecting the interests of small farmers who vote in the interests of the majority government. As a result of that, a tremendous subsidy exists for overproduction in a number of crops; rice being one of the prime examples, but American farmers, citrus farmers and cattlemen look for new markets, look for opportunities. We have not had those opportunities.

The gentleman's point is well taken. If we are going to find the kind of free flow of trade that American agriculture needs, we are going to need more strength on behalf of American interests expressed through the State Department, our trade negotiator, and more understanding on the part of the Japanese that we have a real concern in this country.

I appreciate the gentleman's remarks.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman made a very strong statement here, but I think it is one that had to be made.

I think we have to look at the facts, not only the rhetoric, as the gentleman has so well pointed out.

Twenty percent of all automobiles in this country come from Japan.

Ten to fifteen percent of all the steel in this country comes from Japan.

Twenty to thirty percent of all the TV sets come from Japan.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. ROTH, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. ROTH. Mr. Chairman, will the gentleman yield further?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin.

Mr. ROTH. Ninety percent of all the motorcycles sold in this country come from Japan.

Fifty to sixty percent of all the radios come from Japan.

Over 30 percent of all the cameras come from Japan.

Over 50 percent of all the recording equipment comes from Japan.

Over 50 percent of all watches come from Japan.

Twenty percent of all the machine tools sold in this country come from Japan.

Now, we could go on and on with this litany; but I want to point out that nothing that is sold in Japan—that we sell in Japan—we cannot capture their market, not 10 percent, no. Do you know what the highest is? It is 4½ percent in pharmaceutical products; yet Japan raised such a hue and cry when we got the 4½ percent that we have never heard anything like it before.

Now, when Japan wanted to get into the money market here in this country, into banking, what did they do? They bought the First Bank of California. Automatically that gave them 100 branches. No American bank could do that.

When they wanted to get into high technology, Fujitsu bought Ampal and immediately they were into American technology. No American company could do that in Japan.

When Japan wanted to get into American blood plasma, what did Green Cross do? They bought Alpha, the second largest blood collector in the United States. Now, no American company could do that in Japan.

I think it is about time that we not live in illusion and shimra, but live in the real world and see that these are some of the facts.

Now, when I was at the North Atlantic Assembly the only thing I heard the Europeans say at the EEC was, "If we have high interest rates, it is you Americans who are at fault. If we have high unemployment, it is you Americans who are at fault."

When Mr. Block was at GATT, he told the French Minister, "You have got to do something because the American Congress will not stand for this inequity."

Do you know what he told Mr. Block? He said, "The American Congress is not the center of the Universe."

Well, I think it is about time that we stand up and do something. We cannot keep going in the direction that we are today. We cannot keep being pushed around. That is why something like this is necessary.

I am not saying this is a good bill. I know it is not a good bill; but we have got to do something. We cannot just sit on our back haunches and take everything that is thrown at us.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(At the request of Mr. ROBERTS of Kansas, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ROBERTS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Kansas.

Mr. ROBERTS of Kansas. Mr. Chairman, I appreciate the gentleman yielding and goodness knows I do not want to stand in the way of this rice wedding between the rice producers and the autoworkers; but I would point out that who takes the downside risk? I know the rice producer is having a very tough time, but who takes the downside risk if we send this message? Who is in the trenches?

I would point out that there are $6.6 billion worth of exports last year to Japan and that is a stated fact. Among that, we have corngrowers who benefit from $1.8 billion in exports.

We have soybean producers who benefit from $1.1 billion in exports.

We have wheat producers, yes, wheat producers in my district, who share the concern of the gentleman's rice producers in his district. That is $612 million.

If you plant this flag and send them a message in behalf of the United Auto Workers and in behalf of the rice producers, remember that you are planting a flag in the back of my producers as well. I do not think that is fair.

I thank the gentleman for yielding.

Mr. SCHUMER. Mr. Chairman, will the gentleman from Arkansas yield?

Mr. ALEXANDER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I just ask for 1 minute simply to say that the gentleman from Wisconsin, the gentleman from Arkansas, and the gentleman from Kansas have all made eloquent arguments in favor of this amendment. If we want to increase our rice exports, if we want to help get our export industries back on the road, we should support this amendment. It will do no harm and it will do lots of good.

I appreciate their comments.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I just want to comment to the gentleman from Wisconsin that if the Japanese prohibitions against $19 a pound American beef alone were listed, that your grain sales would significantly and could significantly increase because the Japanese people want that protein. It takes a lot more grain to put that pound on the beef than it does to feed stomachs directly.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman.

Mr. ROTH. Mr. Chairman, I would be happy to respond to the gentleman.

No stockman in Dodge City, Kans., is not aware of the fact that it is $19 a pound for beef or the fact that beef costs, what, five or six times what it does in this country. But how do you go about this to answer the problem. I will speak to that later. I just do not think this is the way.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I think the real point that the gentleman from Arkansas is making is that this particular bill is not a bill to deal strictly with problems of the automobile workers. It is to deal with problems of all Americans, the farmer, the automobile worker, all other workers.

The question that we have before us is whether or not we are going to have free trade. Free trade is the issue. If other countries refuse to agree to a free trade policy, it is a question of what we are going to do about it.

I hope that the Japanese Government, the European governments, will get the message that free trade is the policy of the United States. We extend that policy and hope that all other countries will join with us; but if they refuse, the Government and the people of the United States refuse to be patsies. We are not going to take it any longer. We cannot afford it.

The question then is what steps the United States will take to retaliate.

I thank the gentleman.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman.

I support the amendment and I support the bill.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, first of all, I would like to commend the gentleman in the well for his leadership in the trade area and exports. He has done an excellent job.

I would hope, though, that the debate we have heard here on this subject would carry over to other things we do here in the Congress. I am not talking about any point that the gentleman in the well made.

We are faced with a mountain of butter, milk, and cheese, that we either have got to dump it in the ocean or sell it to the Russians. There is nothing else to do with it; so we are probably going to dump it on the world market and when we do, people in legislatures all around the world are going to be jumping up and down saying, "The Americans have destroyed the butter and cheese and milk market."

We are going to have done the same thing that the gentleman in the well complains about here. His point is well taken. We must watch this.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for an additional 30 seconds.)

Mr. ALEXANDER. Mr. Chairman, I would conclude by responding to the remarks of the gentleman from Florida by saying that, of course we cannot dump our products on the world market in violation of the solemn treaties we have enacted with our trading partners. The Japanese have violated those treaties, however, and they have violated those treaties by taking the hide out of the American rice farmer. I represent that rice farmer and I have had enough from the Japanese and I say: Retaliate.

□ 1620

AMENDMENT OFFERED BY MR. FOGLIETTA TO THE AMENDMENT OFFERED BY MR. SCHUMER

Mr. FOGLIETTA. Mr. Chairman, I offer an amendment to the amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. FOGLIETTA to the amendment offered by Mr. SCHUMER: On line 5, strike out "not".

The CHAIRMAN pro tempore. Does the gentleman insist on his point of order?

Mr. DINGELL. No, I do not, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. FOGLIETTA) is recognized for 5 minutes in support of his amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, as was stated by the gentleman from Minnesota, this amendment simply corrects a typo in the amendment. The word "not" was incorrectly inserted and the ratio would have changed around. This amendment to my amendment gets at its intention and in the interest of saving time, I know that the gentleman from Michigan and the gentleman from Minnesota are far better at the parliamentary procedures than am I, but quite simply, I will just reintroduce the amendment again without the word "not" if this amendment is voted down and we will save plenty of time by simply letting the amendment, as intended, be debated.

I have very formidable opponents. I think they can debate the issue well on the merits.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman should be allowed to perfect his amendment.

I must say the gentleman is doing very well. Although he says he is being outmaneuvered from a parliamentary standpoint, I notice he has won each skirmish so far, and congratulate him for his skillful work.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further to me, I thank the gentleman from Minnesota. His is a compliment I respect.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I have gone over this amendment quite closely and I am quite familiar with the Japanese procedure of importing products from the United States or any other country.

Their procedure is that they have a domestic price set on the product there. For instance, a bushel of wheat that is bought here in the United States for $5.50 delivered over to Japan would sell for $9.40 roughly.

So we have not gained anything. The Japanese are buying wheat in this country below the cost of production to the American farmer. The American farmer is actually subsidizing the Japanese Government simply through the kinds of policies that domestic imports must go through in Japan.

Now, if that is the case, and it is, at $5.50 to $9.40, that whole spread is going into the general fund of the Japanese Government. The reason that we would have problems with this amendment is simply that when, and I hope pretty soon, the cost of wheat gets to a level where at least the American farmers break even, that we have taken care of that increase in goods and services to meet the qualifications of the gentleman's particular amendment.

So I do not see that this amendment is going to accomplish the type of goal that the gentleman thinks it will.

Soybeans is another product. I do not know exactly what the Japanese have, I would have to get those figures, but it is much, much higher. It is a set figure for Japanese soybeans grown in that country by Japanese farmers and all soybeans imported in there are going to have to be sold for processing at that particular time.

Mr. FOGLIETTA. I yield to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan, as well as some of the other gentlemen who are opposing this amendment, is exactly making my point.

My point is that if we want to use this bill as a lever to open up Japanese markets to our wheat and our soybeans and our rice and our computers and our airplanes and our electronics and our telecommunications products and our services, then the only thing to do is support this amendment and then perfect H.R. 5133.

What this amendment does is make the bill say what many of the sponsors say the bill is saying.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, the main problem is that the Japanese have had this system in effect for a long time. They have never taken into consideration changing that. They want a strong agriculture in their country. I do not blame them for that. I do not think because they have a strong agricultural lobby that they are going to change their position.

So what is going to happen is that we are going to sit here for another period of time. The price of wheat has got to go up. The price of soybeans in this country has to go up. It is going to make up for that difference here.

Nothing, absolutely nothing, is going to change. The Japanese will have outsmarted us again.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, let me make a point that I left out in my opening remarks, and I wish the gentleman from Michigan who had made this point would pay attention.

I agree with the gentleman. Not U.S. diplomats, not U.S. policy, not GATT, not anything else we have tried has been able or has forced the Japanese to open up their markets to us the way we have opened our markets to them.

Do you know what this amendment does? Guess who it makes the lobbyists in Japan to open up the Japanese markets?

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. FOGLIETTA) has expired.

(On the request of Mr. SCHUMER and by unanimous consent, Mr. FOGLIETTA was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, not Mr. Brock, not Mr. Schultz; do you know who it makes the lobbyists to open up our market to the goods you want to see sold to Japan? Datsun, Toyota, Honda, Subaru, and all the Japanese auto companies, because this bill says to them:

If you do not get your own Japanese markets opened up to American products, then American markets are closed to you.

It is this amendment that will finally open up Japan's markets to us; not H.R. 5133 alone.

Mr. NEAL. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Chairman, as I listened to this debate, it seems to me the argument of those in favor of the bill has been over and over again that they want the Japanese markets open. It seems to me the gentleman has provided an amendment that would provide a potential for a lever that would do just that, and I would like to hear, if I could, from one of the proponents of the bill why they could possibly oppose this amendment, as amended?

Why would this not accomplish the goal? It does not necessarily accomplish the goal of requiring that automobiles be manufactured here, but I have not understood that to be the primary purpose of the bill anyway. The primary purpose of the bill is to open Japanese markets, if I am correct.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, the reason we oppose it, and I will elaborate on this more, is: First, it does nothing for auto workers or automobiles; 90 percent of the deficit in trade between the United States and Japan is in automobiles.

Second, this makes it a Japan-only bill. There are many other manufacturers that will be discriminated against from other countries if Japan were let out from under this domestic content requirement. Japan would be let out and the provisions would still apply to all other countries.

The third thing is that it does nothing at all to restrain U.S. companies. It alleviates, if you can understand it, the entire restraint on the U.S. industry which increasingly has been building parts all over the world, not just in Japan.

I would like to say I agree with my colleague, the gentleman from New York, Mr. SOLARZ, that this bill is not a vendetta against Japan.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. FOGLIETTA) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. FOGLIETTA was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield further to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

This is not a vendetta against Japan. It is saying to all the countries in the world that have discriminated against us with respect to automobiles that they are going to have to start to give some fairness.

The last thing that bothers me about this is that Japan would have to do nothing if the economics of the world trade simply change and the U.S. dollar drops because our interest rate drops substantially relative to what happens in Japan. Without Japan doing a bloody thing, Japan would be excused from this bill.

It seems to me that is wrong. That is why I oppose the amendment.

Mr. NEAL. If the gentleman will yield further, I do not think that you would find a fluctuation in currency such that Japan would benefit in that fashion from a change in our currency.

□ 1630

What this amendment would do, if I understand it correctly, is it would help open Japanese markets to our products, which is what I have heard everyone that has argued in favor of this bill say they wanted to accomplish. Is that correct? Where am I wrong? Where am I hearing this wrong?

Mr. OTTINGER. The gentleman is right. That is one of our objectives, but one of our objectives is to put some 360,000 auto workers and those in related industries back to work.

Mr. NEAL. If those markets are open and we can sell those automobiles there, if we could sell the agricultural products, why could we not put some of those people to work manufacturing tractors and other devices in demand in world trade?

Mr. OTTINGER. It would have some effect. It has the concomitant effect, which I think is very damaging, of discriminating against other countries and discriminating against U.S. manufacturers in favor of Japan if, in fact, Japan qualifies under the amendment. Therefore, I think it is defective.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further, the gentleman from New York's point is another argument in favor of this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, we have got pending an amendment to which I think there is no objection. I wonder if we could dispose of that. It would be nice to get that over with, then we can discuss the amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Chairman, I would like to be recognized on the matter.

The CHAIRMAN pro tempore. On the perfecting amendment?

Mr. DINGELL. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for an additional 2 minutes.

Mr. DINGELL. Mr. Chairman, I want to be recognized on my own time.

Mr. FOGLIETTA. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DINGELL. Mr. Chairman, I ask to be recognized in opposition to the amendment.

Mr. Chairman, I do not want my comments to be taken as being in any way hostile to the distinguished gentleman from Pennsylvania, who is a very valuable and able Member, or the gentleman from New York, who has my greatest respect, but we are now placed in the rather awkward position of seeking to perfect an amendment which has some problems. I have taken the time to try and analyze the amendment as it first was offered, and second as it is amended by the amendment offered by the gentleman from Pennsylvania.

First, let us take the amendment as it is amended by the amendment offered by the gentleman from Pennsylvania. The bill applies to autos which would be imported from every country in the world. The amendment, as amended by the gentleman from Pennsylvania, would apply only to Japan in terms of affording an escape clause. In other words, the Japanese could get out from under the requirements of the bill by meeting the test of the amendment, but that cannot happen with regard to the Germans, the British, the Italians, the French, or any of the other major auto-producing nations of the world. This would almost certainly trigger an attack on this country for violation of GATT and could very possibly trigger a broad wave of trade sanctions legitimately imposed on automobiles, agricultural products, and everything else exported by the United States, because we would then be discriminating against every other country in the world, for which they would legitimately and properly complain.

Now, with regard to the structure of the amendment, the bill applies only to each manufacturer, on a manufacturer-by-manufacturer basis, and the manufacturer must act during the model year to assure that he meets a prescribed content level. The enforcement takes place, however, after the year is over. The penalty is a reduction of sales in interstate commerce under the formula which is prescribed in the bill.

The amendment gives, or seeks to give, some kind of a defense or a change in the enforcement requirements with regard to the contents permitted. It allows the domestic content requirement to, perhaps, be suspended. This, however, would not be determined until the model year is over, and once a somewhat lengthy period of proceedings has occurred. It is, therefore, impossible for the Japanese manufacturers to ascertain during the year that they are trying to meet a particular level of content. What the level of content is that they must comply with.

That imposes appalling and impossible burdens on the Japanese and other auto manufacturers, including the automobile manufacturers from any country but Japan which cannot escape from the requirements of the legislation.

There are further questions with regard to the amendment which have to be addressed at this time; that is, it is unclear who makes the decision or who determines whether, when or how the exemption which purports to be granted in the amendment is made available to the Japanese. This will surround the enforcement of the legislation with, I think, massive and remunerative litigation for the legal profession. One can be assured that it will afford great doubt as to the automobile manufacturers who will be affected, and very little assurance of protection to the automobile manufacturers of any country, or indeed to the automobile workers of this Nation.

Now, I believe that the gentleman from New York and the gentleman from Pennsylvania seek in extraordinary good faith to offer a good amendment, and it may very well be that they should be afforded permission to withdraw the amendment. I think that we find ourselves in the awkward position of being compelled piecemeal and hurly-burly to perfect an amendment which has a number of defects which come to light on the most casual inspection, and I believe that the amendment should therefore be rejected.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the gentleman's amendment.

Mr. Chairman, I do not want to use up unnecessary time. The gentleman from New York (Mr. SCHUMER) is simply seeking to perfect an amendment on which he made a typographical error.

It seems to me that it is wholly consistent with the traditions of this House and common courtesy that we adopt the gentleman's amendment, and then discuss the effect of the amendment as perfected.

I yield back the balance of my time.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Pennsylvania, obviously, if he seeks to have me yield to him.

Mr. FOGLIETTA. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent that my amendment to the amendment be agreed to.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, this is a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. LEVITAS. Will the adoption of the gentleman's amendment by unanimous consent preclude my being recognized to speak in favor of his amendment?

The CHAIRMAN pro tempore. No, the gentleman does have his time.

Mr. LEVITAS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendment to the amendment was agreed to.

□ 1640

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, this refers to the amendment which was offered by the gentleman from Pennsylvania (Mr. FOGLIETTA); we are not adopting by unanimous consent the main amendment, are we?

The CHAIRMAN. The gentleman is correct. The amendment offered by the gentleman from Pennsylvania (Mr. FOGLIETTA) was to the amendment offered by the gentleman from New York (Mr. SCHUMER). Only that amendment has been agreed to.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I think the purpose for which I sought recognition is even more amply illustrated by the events that have just occurred.

First of all, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. FOGLIETTA) and the amendment offered by the gentleman from New York (Mr. SCHUMER). I intend to vote in favor of the

bill that is pending if we ever get around to voting for it, for the purpose of sending this well-known signal to not only our Japanese trading partners but to other trading partners around the world and Europe and elsewhere who believe in free trade but not fair trade, and for the purpose of letting it be known that the people of America and the U.S. Congress will not be played for fools forever and at the proper time we will take that action when necessary, if it becomes necessary, to insist on reciprocity, which is not a bad word, but is a good word.

But, Mr. Chairman, I would like to talk about something broader in this context. If what we are about this afternoon is to send that signal, why do we not just get on with it? What is this exercise we are engaged in in perfecting a bill that the Speaker of the House said is not going to be passed by the Congress?

The Speaker was quoted in the press today as saying that Congress will adjourn without passing domestic content legislation aimed at limiting auto imports. If we are not going to pass the bill but are just sending a signal, why do we not just dispense with all this activity? It has as much relevance to what Congress is doing as a high school debating society. We are kidding ourselves, we are wasting time and the taxpayers' money, and we are neglecting the things we ought to be doing.

Let us send a signal. I am ready to vote on the bill. But we are not serious in thinking we are perfecting a piece of legislation this afternoon. We are making a charade out of the legislative process.

Let us be serious about it. If what we want to do is send a signal, let us vote on the bill, send a signal, and let us do that by an overwhelming majority. We can let the people in France and Germany and Japan know that we are not going to take it next year and we are not going to stand for it.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I agree with the gentleman. Let us not lose the importance of these amendments. I would like to vote on the bill up or down right now without all of these amendments, for many of the reasons the gentleman stated.

We are trying to send a message, and many of the speakers have said that. But as to this particular amendment, we have seen a fatal flaw in it in the first instance, and since then we have heard the sponsors' questions and arguments against the amendment. The chairman of the Committee on Energy and Commerce has raised questions and arguments against the amendment, and yet we are going in the opposite direction all the sponsors, over 200 cosponsors, have been seeking.

Mr. Chairman, I would wonder, because of what the gentleman said before yielding to me, whether we might withdraw this amendment after this time in this session and proceed with the bill and move as quickly as we can.

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

I want to put the question very seriously to the gentleman from New York or the gentleman from Michigan or any other Member who supports this bill and, I assume, will vote for it. And I intend to vote for it for the reasons I have stated.

Do the gentlemen really believe this bill is going to pass both Houses of Congress and be signed into law? And if they do not believe that, why do we not get on with the vote on final passage and send the message in overwhelming numbers to our trading partners?

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. OTTINGER Mr. Chairman, I would be delighted to vote out this bill now by an overwhelming majority. I think the bill has a chance of passage because of the Senate rules, but I think if only the House passes it, it will have a significant effect.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia.

Mr. OTTINGER. Mr. Chairman, reserving the right to object, I will not object, but I would just like to take this time to advise the gentleman that we have spent almost 2 hours on this amendment. There are other amendments Members wish to offer, and therefore, at the conclusion of the gentleman's time, I will see if we can get unanimous consent on this amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. LEVITAS) is recognized for 2 additional minutes.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I say that if all that happens, if this House passes this bill and does so by a substantial majority, I think it will have a real effect on Japan.

When Canada just recently took very tough actions with respect to Japanese imports of automobiles into its country, Japan, which refused to sign an agreement, suddenly signed an agreement, and I think this is the kind of action that we could expect.

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

Mr. Chairman, I agree with the gentleman, and that is the reason and indeed the only reason I intend to vote for this bill, and I think a significant majority of this House is going to do the same thing for the same purpose, and it will send that message. Then I think we will either see response by our trading partners or the next Congress is going to deal much more comprehensively with the question.

But I say, let us not make a charade out of the business of this House.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. LEVITAS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the gentleman may think it is a charade, but I guarantee that every lobbyist for Datsun, for Honda, and Toyota is watching every word that we say and reading every item of this bill to insure that what we are saying is in fact a piece of foreign policy or whatever.

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

I do not disagree with what the gentleman says, but the one thing that is going to be read, and most clearly, is the vote on final passage, and this rhetoric and these debating society tactics are not accomplishing anything. We are not perfecting a piece of legislation that is going to be enacted into law.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield once more?

Mr. LEVITAS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am just going to say that the amendment offered by the gentleman from New York (Mr. SCHUMER) does change this bill from a trade protectionist bill in some respects to a leverage in reciprocity bill, and there is a purpose in doing that.

Mr. LEVITAS. Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from New York (Mr. SCHUMER), and then let us get on to the passage of the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 45 seconds each.

The Chair recognizes the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Chairman, the gentleman from New York (Mr. SCHUMER) has offered an intriguing amendment because what it says is that if we are truly interested in sending a message to Japan, then let us amend this bill so that a true message is sent. It causes those proponents of the bill to have to take a stand as to whether or not they are truly interested in having Japan reduce and remove it's trade barriers or whether they are merely interested in raising trade barriers to protect our domestic automobile industry, a situation that most agree ultimately will cost us jobs, even in the auto industry.

So I think each Member, before deciding whether or not to vote for this amendment, should ask himself or herself, what is it that we are trying to do today? Are we truly trying to send a signal? Are we truly trying to get Japan to lower its trade barriers, or are we simply trying to raise protectionist barriers that will harm our entire economy?

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. Mr. Chairman, I think the problem with the amendment offered by the gentleman from New York (Mr. SCHUMER) is essentially that he is trying to make it into a reciprocity bill when the purpose of the legislation in my mind was not essentially to be a reciprocity bill.

□ 1650

The problem is that it does not deal with the major problem in American manufacturing of automobiles and that is that American manufacturers foreign-sourcing, engines being made in Mexico, parts being made in Brazil.

The problem with the whole industry is that what we need is an industrial policy in this country and an industrial policy needs a trade policy as a very, very important component.

This amendment would make this bill into a reciprocity bill and that is not what we should be dealing with here.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, I think what we have done is finally gotten the issue of outsourcing on the table. As far as the United Auto Workers are concerned I think that is important. I think that is why this amendment ought to be considered, to probably the great consternation of the original sponsors of the bill. But I think it is important we focus on this.

I yield the balance of my time to my friend from Minnesota (Mr. FRENZEL).

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, I beg to disagree with my colleague from Wisconsin (Mr. ASPIN). I have been lobbied on this bill by many people on the basis that it is a reciprocity bill. That is, if we in fact pass this bill it will encourage other nations throughout the world to engage in much better trade relationships with us.

This is a trade bill and while I am not sure how I am going to vote on final passage this amendment makes it clear that we are expecting Japan to improve their trade balance to the United States or else they will not be met by the negative aspects of this bill.

Thus I would urge an affirmative vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. BROWN).

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the amendment. It seems to me it provides an opportunity to encourage the proper kind of fair trade behavior on the part of the Japanese that can benefit both nations, not only in the sphere of trade but with regard to the rest of their relations.

I yield the balance of my time to the gentleman from Minnesota (Mr. FRENZEL).

(By unanimous consent, Mr. WOLPE yielded his time to Mr. DINGELL.)

(By unanimous consent, Ms. FERRARO yielded her time to the gentleman from Michigan, Mr. FORD.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I rise in support of this amendment. I think as the gentleman from Kansas said a while ago that what we are trying to do is to promote reciprocity.

We also have to keep in mind that when we are talking about jobs, those of who do not have a direct interest in the automobile industry do have people in our districts whose jobs depend upon these imports, and most of those dealers are dealers of American automobiles. When you take imports away from those dealerships people are going to lose their jobs and this is the one thing we do not want to happen.

If we really want reciprocity, if we really want Japan to toe the line, this amendment is the way to go.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the Chairman and rise in support of the amendment by my good friend from New York.

As has been pointed out, this is an imperfect amendment but to an imperfect bill. It does not put clothes on the naked. It does not feed the hungry. But it takes this bill and makes it a reciprocity bill and sends a clear message, one that is worth sending.

In all of the haste of the debate we have forgotten to thank—and I would like to correct the omission—the integrity and the hard work of our colleague from New York for taking an imperfect bill and expanding its benefits from the benefit of a few to the collective benefit of us all. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, it is instructive to me that none of the supporters of the amendment offered by the gentleman from New York (Mr. SCHUMER) have answered the criticism of the gentleman from Michigan, the distinguished chairman of the Energy and Commerce Committee, Mr. DINGELL, when he pointed out that manufacturers would be totally unable to plan from one moment to the next as to what that Japanese manufacturer, for example, was going to be confronted with in regard to standards, rules, American law as it applies to establishing a plant and content in automobiles in this country.

You cannot plan under the Schumer amendment. It is totally impossible and that is just one of the reasons why we should oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. The really sad part about this is that the gentleman from New York offers it in good faith. Frankly, I am no more sure that it will not, because I am unable to understand his explanation either on the floor or indirectly of how it will work, unless you can visualize a trade window that opens one year, closes the next, opens the next year and closes the next.

With an industry like the automobile industry, if you know even the most rudimentary things about its economics, this is insane.

The second thing it does that really has everybody focusing on the hole instead of the donut is that it singles out Japan and it applies only to trade with Japan.

That is not the problem in my Congressional district.

The problem in my congressional district is jobs that used to be in that

district with General Motors, Ford, and Chrysler that are now in Mexico and Brazil and similar countries chasing cheap labor. Those jobs are what we would like to bring home.

So you create the mistaken impression that we in Michigan are out to ruin the Japanese at all costs. What we are interested in is jobs in the United States.

This is the most discriminatory approach we have seen. If we had in the original legislation proposed to aim this at Japan you would have heard the tremors throughout this country.

The amendment is dangerous and mischievous and must be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment. If we want to send a message to the Japanese I have suggested earlier we ought to use Western Union.

The trouble with this amendment is that it is highly discriminatory and applies to only one country. The French, for example, have very high export subsidies on many agricultural products and we are, of course, in competition with them, too.

Many other countries have closed markets, but this amendment ignores them. It takes us into a targeted reciprocity against a single country which cannot be justified in any way.

Unfortunately the amendment would require a $4 billion decrease in the deficit of trade between the United States and Japan by 1984 and $10 billion by 1987. That in unachievable.

If all Japanese markets were to be opened tomorrow there is no way that we could reduce the balance of trade deficit with Japan in that time. In the meantime you are going to force down the yen because of this redirection and you are never going to get any advantage. There will be no threat, no persuasion to Japan because Japan cannot make the achievement that you have asked them to make to be relieved of their duties.

The amendment should be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I am sure that the offerers of the amendment as amended offer it in the best of good faith. They are good men and I respect them.

But if you want to send a message to Japan and the rest of the world you are going to send the wrong message. First of all, the only country that can get out from under the domestic content bill is the Japanese under this amendment. That is an enormously discriminatory proposal and would evoke immediate responses against the United States under GATT by every single one of our trading partners.

Second of all, it is unfair to our domestic producers because it says that regardless of our trade deficit they are still tied to this particular high United States content requirement while the Japanese can go back to low Japanese content and can thus achieve further advantages.

The next thing is it discriminates against our other trading partners, the British, the French, the Germans, the Dutch, the Italians, and all of the others who send us automobiles and automotive products because it affords them no relief whatsoever.

It is an extremely well meant but poorly thought out amendment, unworkable and dangerous, that will hurt American industry and outrage our trading partners.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SCHUMER).

□ 1700

Mr. SCHUMER. Mr. Chairman, again, I respect my colleagues on the other side, and I also have a great deal of sympathy and heartfelt grief for the tens of thousands of auto workers who are out of work. Unfortunately, the domestic content bill will not put them back to work. What will put them back to work is a reciprocity measure. The bill will be perfected if this amendment passes. It creates reciprocity. Every one of you from districts dependent on exports needs this amendment. The country as a whole needs this amendment. It does not discriminate. It is not unworkable. It is keyed to the structure of the bill. It is a good amendment. It will send the message to Japan that we want sent.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) to conclude debate.

Mr. OTTINGER. Mr. Chairman, this amendment not only changes the character of the bill, it will do nothing for the 300,000 auto workers out of work or the 600,000 people in related industries who are out of work.

In response to what the gentleman from Texas (Mr. KAZEN) said, those people's unemployment affects every area of our country and they are the leaders of the tremendous depression we have been having.

The purpose of this legislation is to see that we get some equity back and are able to rehire some of those autoworkers, put some of the rubberworkers, the glassworkers, the textileworkers back to work.

The amendment is discriminatory against Japan. It would work great mischief. It does nothing with respect to the U.S. automobile companies, and I urge its defeat.

● Mr. HARKIN. Mr. Chairman, I rise in support of the Schumer amendment. I feel that the amendment offered by the gentleman from New York, Mr. SCHUMER, is very logical. Japan has been following a one-way street philosophy. They want our markets to be open but they erect artificial barriers to protect their markets from our products.

In agriculture especially, Japan has long maintained very stringent regulations which effectively block American farm products from being sold in Japan. Let us just take one agricultural product: beef exports. Quite frankly, Japan regulates beef imports through a quota system designed to protect their domestic producers. Moreover, the Japanese have developed a preference for grain-fed beef which is the key to expanding this market. For example, Japan's per capita beef consumption has risen steadily from 8 pounds in 1975 to 11 pounds in 1980.

There has ben one interesting development in this area which indicates the Japanese desire for this grain-fed beef, and that is the carry-on beef packs. These are purchased by Japanese business travelers and tourists in duty-free stores outside of mainland Japan. These carry-on packs cost the Japanese traveler about $4 to $5 per pound of beef, while retail beef prices in Japan have reached $15 to $20. The U.S. Meat Export Federation estimates that some 189 metric tons of U.S. beefsteak entered Japan in carry-on packs during 1980.

In addition to their restrictions on beef, the Japanese are also restricting the import of American pork and pork products. Japan controls the import of pork through a stablization price program. Furthermore, because of the Japanese concern for protecting its own domestic pork industry, it is not legal to promote U.S. pork in Japan. In other words, the U.S. Meat Export Federation Office in Tokyo cannot promote the consumption of U.S. pork but must promote the consumption of all pork.

Now think about this, what if we had regulations like that governing our imports. Toyota could not advertise Toyota cars; Datsun could not advertise their Datsun cars. They would simply have to advertise that cars are good—that you should buy a car. Perhaps they could say you should buy a small car or a car that gets so many miles to a gallon. But if we had that kind of a law in the United States that is the only way Toyota or Datsun could advertise.

To sum up my statement just in this regard, I would say that we have to take some actions in this country to assure that U.S. export products, such as beef and pork exported to Japan, will be given the same free-market treatment that their products receive here in the United States.

I believe the Schumer amendment would have that effect. Under the Schumer amendment, we are saying

that if Japan reduces its barriers to our producers, thus reducing our trade in balance, then this domestic content bill would not apply. In this way, the Schumer amendment really promotes reciprocity.

Some have said the Schumer amendment is not perfect. Perhaps this is so, but I do not think the entire bill is perfect. What we are trying to do is to send a message to Japan. I believe the message ought to be one of reciprocity. The message ought to be one of saying to the Japanese that they must take down some of their trade barriers.

I believe that is the best way to go. I will state, however, that even if the Schumer amendment does not pass, I do intend to vote for the bill because I believe a message must be sent. I believe in free trade as much as anyone on the floor, but one cannot keep preaching free trade and let other countries take advantage of us. Again, that is why I believe the Schumer amendment is the best way to proceed.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHUMER), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote taken by electronic device, and there were—ayes 88, noes 310, not voting 35, as follows:

[Roll No. 458]

AYES—88

Alexander	Ginn	Mottl
Atkinson	Glickman	Neal
Bedell	Gramm	Nelson
Benedict	Green	O'Brien
Bereuter	Hall, Sam	Obey
Bethune	Hammerschmidt	Panetta
Biaggi	Harkin	Patman
Bingham	Hartnett	Rhodes
Bliley	Heckler	Ritter
Boggs	Hightower	Roberts (SD)
Bouquard	Hubbard	Roemer
Breaux	Ireland	Rose
Brown (CO)	Jenkins	Roth
Brown (OH)	Kazen	Sabo
Coats	Kindness	Sawyer
Collins (TX)	Kramer	Schumer
Coyne, James	Leach	Simon
Daschle	Lent	Smith (AL)
Daub	Levitas	Smith (IA)
de la Garza	Livingston	Smith (NE)
Deckard	Loeffler	Smith (OR)
Dicks	Lowery (CA)	Stenholm
Donnelly	Lundine	Tauzin
Dorgan	Martin (IL)	Taylor
Emerson	McCurdy	Walker
English	McDonald	Watkins
Evans (IA)	McGrath	Weber (OH)
Fazio	McKinney	Winn
Foglietta	Miller (OH)	
Fowler	Morrison	

NOES—310

Addabbo	Anthony	Badham
Akaka	Applegate	Bafalis
Albosta	Archer	Bailey (MO)
Anderson	Ashbrook	Bailey (PA)
Andrews	Aspin	Barnard
Annunzio	AuCoin	Barnes
Bellenson	Gray	Parris
Bennett	Gregg	Pashayan
Bevill	Grisham	Patterson
Boland	Guarini	Paul
Boner	Gunderson	Pease
Bonior	Hall (IN)	Pepper
Bonker	Hall (OH)	Perkins
Bowen	Hall, Ralph	Petri
Brinkley	Hamilton	Peyser
Brodhead	Hance	Pickle
Brooks	Hansen (ID)	Porter
Broomfield	Hansen (UT)	Price
Brown (CA)	Hatcher	Pritchard
Broyhill	Hawkins	Quillen
Burgener	Hefner	Rahall
Butler	Heftel	Rangel
Byron	Hendon	Ratchford
Campbell	Hertel	Regula
Carman	Hiler	Reuss
Carney	Hillis	Rinaldo
Chappell	Holland	Roberts (KS)
Chappie	Holt	Robinson
Cheney	Hopkins	Rodino
Clausen	Horton	Roe
Clay	Howard	Rogers
Clinger	Hoyer	Rosenthal
Coelho	Huckaby	Rostenkowski
Coleman	Hughes	Roukema
Collins (IL)	Hutto	Rousselot
Conable	Hyde	Roybal
Conte	Jacobs	Rudd
Conyers	Jeffries	Russo
Corcoran	Johnston	Santini
Coughlin	Jones (NC)	Savage
Courter	Jones (OK)	Scheuer
Coyne, William	Jones (TN)	Schneider
Craig	Kastenmeier	Schroeder
Crane, Daniel	Kennelly	Seiberling
Crane, Philip	Kildee	Sensenbrenner
Crockett	Kogovsek	Shamansky
D'Amours	LaFalce	Shannon
Daniel, Dan	Lagomarsino	Sharp
Daniel, R. W.	Lantos	Shaw
Dannemeyer	Latta	Shelby
Davis	Leath	Shumway
Dellums	Lee	Siljander
DeNardis	Leland	Skeen
Derrick	Lewis	Skelton
Derwinski	Long (LA)	Smith (NJ)
Dickinson	Long (MD)	Snowe
Dingell	Lott	Snyder
Dixon	Lowry (WA)	Solarz
Dornan	Lujan	Solomon
Dougherty	Luken	Spence
Dowdy	Lungren	St Germain
Downey	Madigan	Stangeland
Dreier	Markey	Stanton
Duncan	Marks	Stark
Dunn	Marlenee	Staton
Dwyer	Marriott	Stratton
Dymally	Martin (NY)	Studds
Dyson	Martinez	Stump
Early	Matsui	Swift
Eckart	Mattox	Synar
Edgar	Mavroules	Thomas
Edwards (AL)	Mazzoli	Trible
Edwards (CA)	McClory	Udall
Edwards (OK)	McCloskey	Vander Jagt
Erdahl	McCollum	Vento
Erlenborn	McDade	Volkmer
Fary	McEwen	Walgren
Fenwick	McHugh	Washington
Ferraro	Mica	Weaver
Fiedler	Mikulski	Weber (MN)
Fields	Miller (CA)	Weiss
Fish	Mineta	White
Fithian	Minish	Whitehurst
Flippo	Mitchell (MD)	Whitley
Florio	Mitchell (NY)	Whittaker
Foley	Moakley	Whitten
Ford (MI)	Moffett	Williams (MT)
Ford (TN)	Molinari	Williams (OH)
Fountain	Mollohan	Wilson
Frank	Montgomery	Wirth
Frenzel	Moore	Wolf
Frost	Moorhead	Wolpe
Fuqua	Murphy	Wortley
Garcia	Murtha	Wright
Gaydos	Myers	Wyden
Gejdenson	Napier	Wylie
Gephardt	Natcher	Yatron
Gibbons	Nelligan	Young (AK)
Gilman	Nichols	Young (FL)
Gingrich	Nowak	Young (MO)
Gonzalez	Oakar	Zablocki
Goodling	Oberstar	Zeferetti
Gore	Ottinger	
Gradison	Oxley	

NOT VOTING—35

Beard	Findley	Pursell
Blanchard	Forsythe	Railsback
Bolling	Goldwater	Schulze
Burton, John	Hagedorn	Shuster
Burton, Phillip	Hollenbeck	Smith (PA)
Chisholm	Hunter	Stokes
Emery	Jeffords	Tauke
Ertel	Kemp	Traxler
Evans (DE)	LeBoutillier	Wampler
Evans (GA)	Lehman	Waxman
Evans (IN)	Martin (NC)	Yates
Fascell	Michel	

□ 1720

Messrs. PHILIP M. CRANE, WALGREN, LELAND, and FIELDS changed their votes from "aye" to "no."

Mr. BEDELL and Mrs. SMITH of Nebraska changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

I take this time to advise the Members what our intent is. The minority and ourselves have an agreement. There are two amendments from the minority. We are going to seek to limit time on those two amendments, after which we will seek to terminate the bill at a reasonable hour. We hope we can terminate all business on the bill before 7 o'clock.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, we have two amendments on this side, one from the gentleman from Indiana (Mr. COATS) and one from the gentlewoman from New Jersey (Mrs. FENWICK). I have one or two which I think can be dispatched rather quickly.

We on this side will agree to a limitation of time on those amendments only and the managers of the bill have graciously decided not to call for an overall limitation of time.

Now, there will be other volunteers who will have amendments. We will try to take them as quickly as possible, but we will appreciate the cooperation of each of the Members in letting some of these amendments get adequate debate without filibuster.

I think we should be able to finish by 7:30 perhaps, if we do not have an extraordinary number of orators.

I thank the gentleman for yielding.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, there are a number of amendments, of course, that have been printed in the RECORD to be offered by a number of Members. I have no intention of offering any amendments at this time, but I would hope that the gentleman from Indiana would be permitted to offer

his amendment. He has been waiting all day. The gentlelady from New Jersey also has an amendment she wishes to offer.

There are other amendments, but perhaps the other amendments may not even be offered.

Mr. OTTINGER. It is my understanding that our arrangement is that we are not going to seek to cut anybody off, but we are going to try to limit debate on individual amendments.

Mr. BROYHILL. That is fine with me.

Mr. OTTINGER. We will, hopefully, have restraint on the part of all our colleagues with respect to speaking on these amendments so that we can conclude the debate as early as possible.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

My understanding is that there are roughly 30 amendments at the desk. Is it the gentleman's intention at some point soon to try to bring to a conclusion all debate on all these amendments at one time?

Mr. BROYHILL. Mr. Chairman, would the gentleman yield for me to answer that?

Mr. OTTINGER. I am glad to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, if I can respond to the gentleman from California, it is our understanding that the vast majority of those amendments may not be offered. They may be at the desk, but they may not be offered. There are only two or three amendments that may be offered.

Mr. ROUSSELOT. Well, I appreciate my colleague's enlightened statement.

I was still trying to get a statement from the managers of this operation.

Does the gentleman intend to limit debate at 7 o'clock regardless, is that the intention?

Mr. OTTINGER. We do not intend to do so and the minority has indicated that if we do not do that, then they have only two or three amendments left to offer. We can limit time on those amendments and they will not offer the amendments that are printed in the RECORD, so we will not have to stay up all night.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for his wonderful position.

AMENDMENT OFFERED BY MR. COATS

Mr. COATS. Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mr. COATS: Page 15, after line 2, insert the following new section:

SEC. 8. SECRETARY OF AGRICULTURE REPORTS.

Within one year after the date of enactment of this Act, the Secretary of Agriculture shall undertake an investigation, and submit to Congress a written report regarding the impacts of this Act upon the exportations of agricultural commodities from the United States.

Renumber the succeeding sections accordingly.

Mr. COATS. Mr. Chairman, this amendment would require the Secretary of Agriculture within 1 year of the date of enactment of this act to undertake an investigation of its impact upon the exportation of farm commodities in the United States. We have heard a great deal of discussion today about the impact that this bill would have on agriculture and our agricultural exports.

In his letter to Congress dated December 8, 1982, Secretary Block warned that passage of this bill may have severe consequences for American agriculture. Secretary Block pointed out that 2 of every 5 acres of crops grown and nearly one-fourth of all farm cash receipts are from export sales. He also warned that retaliation could be expected, particularly from the European Community and Japan, which together bought $18 billion of U.S. agricultural exports in 1981, over 42 percent of our total farm exports in that year.

Let me repeat that figure, $18 billion of U.S. farm sales in 1981 were to Japan and the European Community.

Japan alone imported $6.6 billion worth of U.S. agricultural exports.

The U.S. exports nearly two-thirds of its production of wheat to Japan and Japan is the largest wheat export market after the U.S.S.R. and China.

□ 1730

One-half of the production of soybeans and soybean products in this country goes to Japan. One-half of all soybean products.

These adverse consequences have been recognized by the U.S. farm community. I have received, as has every Member, a mailgram listing 18 national farm organizations opposed to this bill for the reasons that I have just stated. Listen to some of their conclusions:

The American Soybean Association says H.R. 5133 "would do more to destroy world trade than any action since the Smoot-Hawley Act."

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COATS. The American Farm Bureau Federation has said this bill "would invite retaliation and American agriculture would be seriously injured."

Mr. DINGELL. Mr. Chairman, will the gentleman yield to me?

Mr. COATS. I will be happy to yield to the gentleman in a moment.

Mr. DINGELL. Mr. Chairman, I want to tell the gentleman that I find the amendment acceptable.

Mr. COATS. I would like to finish my statement, if I could, and had promised to yield to others also.

Mr. DINGELL. Mr. Chairman, if the gentleman would just yield, I would like to say to the gentleman that I would be happy to accept the amendment.

Mr. COATS. There has been some dispute on both sides as to whether it should be accepted.

Mr. Chairman, this amendment requires that the Secretary of Agriculture conduct an investigation and submit a report to Congress on the impact of H.R. 5133 on the export of agricultural commodities. This must all be done within 1 year.

I would like to accept this amendment, but I am concerned that someone might construe it to be entirely biased toward agriculture and that the Secretary is not required to insure that the investigation and report be balanced, that it will consider the purpose of the bill, that it will examine the state of trade and other barriers to U.S. exports, including those covered by this bill and agricultural exports, and that it will be prepared with public input. With that understanding, I could accept it.

Mr. DINGELL. There is no dispute on this side.

Mr. COATS. Mr. Chairman, I appreciate my chairman's cooperation.

Jack Parson, the president of the National Corn Growers Association, warned that H.R. 5133 "would simply open the door for retaliation by countries that are valuable export markets for the U.S. agricultural commodities."

Finally, Robert Hampton, speaking for the National Council of Farmers' Cooperatives, is convinced that this bill "could lead to the critical destruction of world trade and a devastating decline in our export markets, with tremendous damage to our national interests."

Mr. Chairman allow me to list for the Members, the 10 largest States exporting farm commodities in this country. California leads the nation with $13.9 billion of exports, followed by Iowa with over $10 billion of exports, Texas, Illinois, Minnestoa, Nebraska, Kansas, Wisconsin, Indiana, and North Carolina, with Missouri a close eleventh. Those States combined have exports approaching $100 billion. Members representing those States should weigh the impact of this bill on the agricultural exports of those States.

Agricultural products are an important part of our world trade. It is important that we weigh the consequences of this.

Therefore, my amendment asks the Secretary of Agriculture to report within 1 year the impact of this on export market.

Mr. DAUB. Mr. Chairman, will the gentleman yield to me?

Mr. COATS. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I want to rise in support of the gentleman's amendment. The assessment of the impact of this kind of legislation, should it pass, for agriculture is extremely important.

I commend the gentleman on his effort. His crafting of the language is perfect. I would support it.

I rise in opposition to this well-intentioned but badly flawed proposal to address the unemployment situation in our Nation's automobile industry. Unemployment is our Nation's No. 1 problem and this Congress should devote itself to finding ways to reduce it. The way to reduce unemployment in the automobile industry as well as others is to bring down interest rates. If interest rates were lowered, Americans would have more money to buy autos and other goods and manufacturers would have more money to invest in new plants.

Unfortunately, for Congress to reduce unemployment by bringing down interest rates requires that it take a fine scalpel to Federal spending and reduce those areas where the benefit acquired is less important than the disadvantage created by the deficit spending required to finance it. This would mean that Congress would have to acknowledge to the American people that much of what it did for them was not in their long-term interest.

Instead of facing these hard truths, this Congress is spending its final days debating a proposal that is little more than a sleight of hand attempt to divert attention from the real problems facing this country by legislating false cures to the Nations's economic ailments.

For the first time I can recall I find myself rising to embrace the editorial posture of the Washington Post which has taken a very levelheaded attitude toward this legislation as have most commentators who are not seeking to mislead a potential voter.

The Post describes this bill as "doubly bad legislation * * * not only is it wrong in principle, but as a practical matter its effect will be precisely the opposite of its sponsor's intention. It will preserve fewer jobs than it destroys."

The Post points out that Ambassador Brock has correctly stated that most of the new jobs that have opened up in domestic manufacturing in recent years are in the export industries. In addition to these manufacturing jobs we have a $40 billion export market for our agricultural goods overseas that the farmers in my State depend on for markets. Were this measure to pass, we would hear a very loud shot in a trade war that this country would certainly lose in the long run.

We need to concentrate on our exports, not devise schemes that will result in even greater protectionism overseas than exists already. We have unfair relations with many of our trading partners and this Congress is absolutely correct in demanding that the administration argue forcefully with our partners for better treatment and should argument fail, we should consider well-reasoned efforts to deal with restrictions.

I believe the Members would do well to heed the warning that the Reagan administration, the Washington Post, and those in between have to offer. This is a "vote for a low-growth economy. It is an attempt to shore up the less competitive industries at the expense of the most competitive. It is a vote for the kind of industrial policy that gives priority to the status quo with continuing high unemployment, inflation, and stagnant incomes."

I urge my colleagues to reject this measure.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield to me?

Mr. COATS. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. I thank the gentleman for yielding.

Mr. Chairman, certainly finding out figures I think is acceptable, and I would support that, although considering what our allies have already done to our agricultural markets, I am not sure I would agree with everything the gentleman said in terms of the domestic content bill.

Mr. COATS. Mr. Chairman, in reply to the gentlewoman from Illinois, whom I greatly respect, this does not imply there are not situations which we need to correct.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has expired.

(By unanimous consent, Mr. COATS was allowed to proceed for 1 additional minute.)

Mr. COATS. Mr. Chairman, I requested the additional time in order to respond to the gentlewoman from Illinois (Mrs. MARTIN).

I agree with her that there are situations we need to correct with some of our trading partners, but we should not ignore the fact that $18 billion of agricultural commodities, were exported last year to the European Community and to Japan, and that Japan alone imports $6.6 billion worth of agricultural products in the United States.

We must bear that in mind. We do have some areas we need to improve. I believe we can improve on those areas, but let us not deny these markets which we have already established.

The CHAIRMAN. Does the gentleman from New York (Mr. OTTINGER) continue to reserve his point of order?

Mr. OTTINGER. Mr. Chairman, I withdraw the reservation of the point of order and say that we will accept the amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would call this amendment the amendment that would call for the assessment that the damage that this bill would do to a most important segment of our economy, and that is the agricultural economy.

I happen to have several letters. Here is one letter from the president of the National Grange in which he says, and I quote:

> We are increasingly concerned that growing use of trade-distorting practices such as export subsidies, the threat of major new import-restricting measures which could seriously disrupt world trade systems, H.R. 5133, the automotive content bill, represents such a threat.

He continues with this sentence:

> We urge you to take all possible steps in opposition to H.R. 5133.

The president of the National Grange, among other farm leaders, is very concerned about the impact that this bill is going to have upon the farm economy.

The gentleman from Indiana offers an amendment to instruct the Secretary of Agriculture to assess, to investigate and to submit to Congress written reports regarding those impacts and the ravages that this bill will have on the farm economy.

Mr. ROBERTS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield at this time to the gentleman from Kansas.

Mr. ROBERTS of Kansas. I thank the gentleman for yielding.

Mr. Chairman, I can assure the chairman that I do not intend to take the full time, but I think there is a possible allegory here.

One of the things that we have heard in regard to this bill is that not only are we interested in jobs but we want to send a message to Japan in regard to our farm exports. The wheat producer in France now gets $5.20 for his product. The wheat producer in Dodge City, Kans., gets $3.50, approximately. The French actually subsidize their wheat producers approximately $1.90.

So to send a message to France, I think it is obvious that enough is enough; we should do like my colleague from Arkansas said, the "Retaliation Two-Step." We should send them a message. We should have a domestic content bill here saying that all wine consumed in the United States must come from a domestic producer. That makes just as much sense as this entire bill.

The real purpose of this bill is not to encourage farm exports, not to send a message to Japan, but it is to wave the United Auto Workers banner in terms of symbolism. The gentleman from Georgia is correct.

But suppose it would pass; Who would have this downside risk? Who would pay the price? I submit to you it is the people on the receiving end of that $6.6 billion that we had in exports to Japan just this last year. If we let this critter out of the pen, we are going to have miles of fence to put up.

The damage assessment is terribly difficult to appreciate. That is why I support the amendment offered by my colleague from Indiana and urge the defeat of this bill.

Like the fat person said when he crawled through the barbed wire fence: "One more point and I am through."

We heard an interview referred to by my colleague from Michigan about the Premier of Japan, Mr. Yasuhiro Nakasone, in the Wall Street Journal. I urge my colleagues to read this interview in full.

What would my colleagues do if, in fact, our country were dependent for food supplies to the tune of 47 percent. Well, we are trying to work this out on a step-by-step reasonable basis. We can send them a message. First, we can be a reliable supplier and end the practice of using the farmer with embargoes. We can do it with dairy products if we want. We can do it with the new payment-in-kind program that is envisioned by the Secretary of Agriculture and apply it to export payment in kind. We can do it with expansion of blended export credit, but this is the wrong way to accomplish our goals.

I submit to my colleagues that this is a bad bill. I submit to my colleagues that the amendment offered by my colleagues, the gentleman from Indiana, is a good amendment, to a bad bill.

● Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Indiana (Mr. COATS) which would require the Secretary of Agriculture to undertake an investigation and submit a report to Congress on the impact of this act upon the exportation of agricultural commodities from the United States. It makes some improvement in an otherwise terrible bill.

The importance of our export markets to American agriculture cannot be understated.

America began exporting agricultural products more than 350 years ago with the sale of tobacco to the English. According to statistics gathered by the U.S. Department of Agriculture's Foreign Agriculture Service, our Nation now exports more agricultural products than any other country in the world. More than 150 nations receive U.S. agricultural products. We account for four-fifths of the soybeans moving in world markets, two-thirds of the feed grains traded, two-fifths of the wheat and cotton and one-fifth of the tobacco and rice sold between nations. Earnings for our sales abroad of agricultural products have added more than $10 billion to our trade surplus account each year since 1974. In contrast, our nonagricultural trade balance reversed from a $958 million surplus in 1970 to a $50 billion deficit just 10 years later. Over the same period, the farmers and ranchers of this Nation have performed in exemplary fashion, boosting the agricultural trade surplus from $1.3 billion in 1970 to an amazing $23.2 billion just 10 years later.

The importance of these foreign markets to the individual farmer—as well as to the Nation as a whole—cannot be underestimated. Presently two-fifths of our cropland produces commodities for foreign sales—or approximately 138 million acres. Moreover, one-fourth of the cash receipts earned by our farmers and ranchers comes from that vital trade. Expanded markets encourage production efficiencies which inure to the farmer's own benefit as well as to the American consumer.

It seems almost unbelievable that in the 1930's, average yearly exports were only $765 million. That figure rose steadily to $2.416 billion in the 1940's, $3.603 billion in the 1950's, and $5.735 billion in the 1960's. Average yearly sales then skyrocketed to $18.370 billion in the decade of the 1970's.

Everyone—consumers, farmers, ranchers, workers—benefits from a healthy agricultural export program. Multiple values of the export effort can be readily cited.

Although we exported more than $40 billion of agricultural products during fiscal year 1980, the U.S. Department of Agriculture estimated that such trade generated twice that amount of activity in the domestic economy and accounted for roughly 1 million jobs. In 1979, almost half a million people were employed on the farm and approximately 680,000 in jobs related to the assembling, processing and distribution of agricultural products to be exported. USDA statistics for 1979 tied 60,000 food processing, 300,000 trade and transportation, 120,000 manufacturing and 50,000 other jobs in the economy to our agricultural export effort.

Given the critical contribution which exports make to the farm economy, we must not act hastily in enacting this legislation without at least minimal concern about its impact upon the agricultural sector. Passage of H.R. 5133 raises the certain prospect of retaliation by foreign countries. Thus, we should have information which allows Congress to reevaluate the benefits of the domestic content requirement to the United States—benefits if any. I therefore strongly urge adoption of the Coats amendment to this bill.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. COATS).

The amendment was agreed to.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had offered an amendment in committee, a so-called reciprocity amendment, that sought to give the President selective powers to waive the provisions of this bill with regard to auto imports from countries that had undertaken a reduction of quotas, tariffs, and trade barriers. This amendment failed in committee on a vote of 20 to 21.

I had sent out, with my colleague, the gentleman from New York (Mr. LENT), a "Dear Colleague" letter asking for support on that amendment, and some interest was expressed.

I felt, Mr. Chairman, that I should rise and explain why I will not be offering that amendment here tonight. The amendment does improve the bill, in my opinion, but in all honesty, the improvement is largely cosmetic.

□ 1740

It does not change the basic nature of this bill, nor would the adoption of that amendment change my basic opposition to the bill. My concern, after discussing it with our colleague from Florida, our colleague from Minnesota, and our colleague from North Carolina, is that by improving the bill cosmetically, but only marginally in terms of substance, the amendment might induce some of our colleagues to vote for this bill. My concern is not that the bill will become law this year. My concern is that if we cast a vote tonight as a protest or to send a signal, if we come back next year on a real attempt to adopt the bill, many Members will have trouble getting back across the river. I do not want to contribute to anybody voting for what I believe is surely one of the worst bills we have considered since I have been in the Congress.

I therefore am strongly opposed to this bill, and will not undertake to improve it in any way.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to H.R. 5133. I do so with some sadness, for I know many unemployed Americans believe the bill can provide jobs. The unemployment rate will soon pass 11 percent—action is needed now. But this legislation is not a cure. I could support the bill if it would create jobs, benefit consumers, or revitalize the

economy. I am convinced it will do none of these things.

The bill's supporters point to the creation or protection of 800,000 jobs. I wish this were so. But other estimates, including a CBO study, indicate the legislation would result in a net loss of perhaps 150,000 jobs. Our economic and foreign policy cannot be created in a vacuum. For every job this bill creates in the automobile industry, at least one job will be lost in another sector.

How do consumers fare under this legislation? Will this bill result in lower prices and better quality automobiles? The answer is clearly "No." We are only considering this legislation because imports have cut into the domestic manufacturer's market. This happened not because Americans like buying "Japanese," or because domestic cars have too much pollution control equipment. It happened because the American auto industry was outmarketed and because management was too slow in responding to changes in consumer demands and needs. For too long our models emphasized big engines, when consumers wanted fuel efficiency. When consumers sought quality and impressive repair records, they found them in imports and changed their buying preferences. When the Christian Science Monitor conducted a survey on why Americans were not buying American cars, one responded summarized the prevailing feeling by saying: "The American consumer, however patriotic, wants top quality for top dollar. Currently, the trust and evidence rests with the imports."

My colleagues have spoken so eloquently about the suffering millions of unemployed Americans are feeling. I share their conviction that we need to address and end this tragedy. But we cannot erase our problems by eliminating competition. We cannot solve our economic problems through isolationism or protectionism. Our society and economy is premised and works on concepts of free trade. This system of competition has brought many benefits, and is the foundation of our economic growth. The consumer benefits when competition gives him a choice. Our society benefits because competition leads to improved efficiency and quality, as well as lower prices. Protectionism denies our American consumers the benefits that a free market competition would bring. It does a disservice to the auto industry because it signals the message that they do not need to improve their product and their efficiency. The message to our unemployed workers should not be one of fear, resignation, and a rejection of our free trade system. The message should be of hope combined with a program emphasizing our strengths—strong competition and an open market. This legislation offers a desperate solution that in turn will be no solution but an aggravation of the economic problems our Nation faces.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 14, after line 11, insert the following new section:

SEC. 7. RELATION TO TREATIES, CONVENTIONS, AND AGREEMENTS.

Notwithstanding any other provision of this Act, nothing in this Act shall be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade which is in existence on the date of enactment of this Act and to which the United States is a party.

Renumber the succeeding sections accordingly.

Mrs. FENWICK. Mr. Chairman, I yield to my colleague, the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Chairman, I thank the gentlewoman. I rise in strong opposition to the Fair Practices in Automotive Products Act because of the negative impact it would have on the State of Texas, the Port of Houston, and the metropolitan area of Houston.

Mr. Chairman, I have listened to this debate closely and I do sympathize with those U.S. auto workers who are currently unemployed.

While everyone in this body would like to provide gainful employment for each and every one of these workers, I believe this legislation proposes a solution which is totally unacceptable.

During the debate on this legislation, the proponents of this bill have argued that it will create jobs for their constituents. I am here to tell you that this bill will not create any jobs for my constituents but will, in fact, jeopardize continued employment for thousands of Houstonians.

The Port of Houston, which is located entirely within my district, leads our Nation in foreign imports received with automobiles ranking third in terms of financial value.

However, this figure alone does not tell us either the whole or the human side of this story. It alone does not tell us that the Port of Houston provides directly or indirectly jobs for over 160,000 Texans and that it provides over $3 billion to our State's economy.

In fact, at a time, when general cargo is down by over 20 percent at the port, auto imports have increased by over 4 percent and with that increase new jobs have been created for additional Houstonians.

In addition, the Port of Houston has recently received the results of a study commissioned in 1981 which concludes that "auto imports have the greatest economic impact on a few ton basis of any imported commodity into the port."

In short, auto imports, provide jobs and livelihood for thousands of Americans living in Houston who are employed in the transportation, unloading distribution, advertising, and sale of these cars.

These are Americans who pay their taxes, who work hard for a living, who believe in the free enterprise system and who now face the prospect, through no fault of their own, of having their jobs eliminated in order to create other jobs for other Americans in places like Michigan, Indiana, and Ohio.

Mr. Chairman, we must not consider this legislation with a myopic view nor should we proceed without considering the consequences of our actions. According to the Congressional Budget Office, this legislation will create 38,000 jobs in the U.S. auto industry by destroying and eliminating 104,000 jobs in other sectors of our economy. How can we justify this as a bill to put people back to work when, in fact, the net effect will be a loss of 66,000 American jobs?

The price of this legislation is simply too high. The cure is worse than the disease and I urge my colleagues in the name of fairness and equity for all Americans to reject this misguided and ill-advised bill.

Finally, Mr. Chairman, I would like to send a loud and clear message to our foreign trading partners. While I may not be able to support this bill, I believe the time has come for our products going abroad to be treated in the same manner that we afford imports entering this country. I strongly believe in reciprocal trading relationships and urge our trading partners, Japan in particular, to immediately eliminate their numerous and burdensome nontariff barriers. If not, then these nations run the risk of losing the opportunity to trade in our market.

Unless these barriers are quickly eliminated, I will, in the future, find it increasingly difficult to oppose protectionist legislation.

I believe very sincerely that it is in the best interest of every nation to follow a uniform set of trade laws. However, it is not free trade and it is not fair trade if we Americans play by the rules and our foreign competitors do not.

Thank you, Mr. Chairman.

Mrs. FENWICK. Mr. Chairman, I am not going to take 5 minutes. I think the Members all know why I am speaking.

This amendment seeks to have our Nation honor its obligations, and I do not think there is a Member of this House who does not know how important that is. We are either going to proceed in this world on the basis of dog eat dog and "save me, save me," or

we are going to try to have an orderly world of law and justice under law.

Now, let me just read to the Members very briefly what we are doing here. This is why Mike Mansfield said it is the most blatant breaking of a treaty, article 3, paragraph 5, of this agreement, which says:

No contracting party shall establish or maintain legislation * * * which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources.

It is perfectly clear. Now, I deeply sympathize with the remarks of my colleagues. They are passionately and from the heart advocating the interests of their constituents. What could be more proper? Who else is going to do it? But, what we are faced with as a body, all of us together, 435 in this House, are the national interests and our position in the world. I do not think we can tramp around declaring war, and that is what we are doing. We heard it here this afternoon, passionately declaring war. What kind of a world are we making? Are we really going to say that anytime it pinches we will not try to go to court, so to speak, but we strike out? That is not the way a great Nation behaves.

I have been very much impressed with the speeches here today; the gentleman from Florida, as always, and the gentleman we just heard, the gentleman from California—one of the best speeches this afternoon. It is a broad view, and that is what we have got to take. We are not moving in a world where we can do little things and nobody cares what we do.

We have got to take this Congress seriously. We cannot pass bills that are just the product of emotion and passion. We have got to have a sense of responsibility toward the Constitution of the United States, toward the obligations of our country.

I hope the Members will just let me say for just a moment, that my father was born in Kentucky and brought up in Minnesota, and his father was a general in the Civil War.

□ 1750

I can remember what his father taught him and what he taught me—a man's word should be as good as his bond. A man's word does not need a penalty clause in order to live up to it, and neither does a nation's.

When we have a system that we could somehow negotiate a range and bring it to a conclusion, a fair and just conclusion, that is what we ought to use, not war, not force, and not the power of this enormous market, because we export as well as import, and we must begin to pay attention to what we promised to do.

Mr. Chairman, I am not going to take any more of the time of this body. I did not expect to speak so long, and I thank the Members for their kindness.

The CHAIRMAN. The Chair will inquire, does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. No, Mr. Chairman. I withdraw my point of order.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I think that the gentlewoman from New Jersey (Mrs. FENWICK), as usual, offers her amendment in good faith, and yet one of the main reasons for this bill is because many of us feel that we are being unfairly treated by other countries that are violating all sorts of treaties. Those Members who support the bill are not out there looking for treaties to violate.

I guess that part of what we are saying is best summed up by a story that somebody told me about some Japanese businessmen who came to America for the first time. They had never been here before. They were very prosperous. They got off the plane at Kennedy, and they came into New York. The cab dropped them off at Times Square. Those of us who come from the Northeast and are familar with New York City know what shopping bag ladies are, and there was a shopping bag lady huddled on a cold day before a storefront, and these fellows got out of the car. They had never seen this sight before, and they tapped this woman and they asked, "could you tell us where the Sony Building is?"

She woke up and she looked up at them and said, "the Sony Building? You guys didn't have any trouble finding Pearl Harbor. Find it yourself."

Part of what we are saying is, "find it yourselves." We have got to be a little tough here.

What the amendment offered by the gentlewoman from New Jersey does is it pierces the heart of what we are trying to do with this bill. Of course, it is imperfect. But how many of us, particularly from the Northeast, dwell on free trade? I cannot speak for Iowa, where maybe our friends are right. Maybe wheat trade is top thing on people's minds in Iowa or Nebraska, where maybe they really do believe in totally free trade and leaving the current situation the way it is.

But I can tell the Members, being from the Northeast—and I am sure it is true with the gentleman from Michigan (Mr. DINGELL) and others—that we have sat in too many coffeeshops and delicatessens across the table from auto workers who are out of work and without anything to tell them what we think should be done. I am not going to be here, and so I am not saying this for myself, but those Members of Congress, Republican and Democrat, from those kinds of districts can no longer sit in those coffeeshops and talk to guys who have been thrown out on the street without offering some alternatives. There is just no more time for that. So this is an imperfect instrument to try to speak to their plight.

I had the manufacturer of a major component that implements automobile engines in my area—he is a conservative Republican, by the way—take me aside and whisper in my ear a few months ago, "Congressman," he said, "the major automobile manufacturers in America have thrown in the towel on American workers. General Motors is shipping the manufacture of its engines to Mexico and Brazil at record rates." If we are going to throw in the towel on American workers, let us at least admit it. Let us come into the well and let us go back home and look them in the eye and say, "we are throwing in the towel on you folks. We just don't believe you can make these things anymore."

Let us not be dishonest with these people any longer. If we do not know of anything to say to them and we really believe we are in this transition to new tech-high tech industries and other new industries and these people are going to fall by the wayside, let us be honest and tell them that. I do not believe that is true. I do not believe a majority of the Members of the House on either side of the aisle believe it is true, and therefore, we must come up with some alternatives.

So, Mr. Chairman, we have an imperfect but important alternative and approach here that I know, coming from the district I have been privileged to serve for 8 years, is welcomed by the vast majority of the people there.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to my friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I join with the gentleman from Connecticut (Mr. MOFFETT) in opposition to this amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

There is adequate machinery that is available. There is no guide in this amendment as to how we interpret whether there is any agreement that has been violated, but if it should be interpreted that there is a violation, there is machinery in GATT for resolving that.

And I am just wondering if Japan, with all its nontrade barriers, is going to try to assert a GATT claim against us.

France froze a share of its market at 3 percent in 1978, and last year they cut that back to 2½ percent.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, Italy, with car sales of 900,000, does not permit more than 2,200 autos a year from Japan. Nissan, in response, now is entering into a joint venture with Alfa Romeo to produce cars in Italy. That, it seems to me, is a much more drastic provision than what we provide.

England has limited Japanese participation in its market to 10 or 11 percent. We are the only country that does not. Really, we are "Uncle Sucker."

While I sympathize 100 percent with the gentlewoman's intent, I would like to say to her that the ideal she seeks can only be reached on a reciprocal basis. We cannot have all the other major trading companies in the world putting on these drastic measures and the United States say, "Well, we are going to be Mr. Good Guy. We will watch our entire automobile industry disappear, we will watch while our jobs disappear, and we will do nothing about it."

So, Mr. Chairman, the gentleman's point is very well taken.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. The gentleman from Connecticut (Mr. MOFFETT) has the time.

Mr. MOFFETT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I do not like to hear about my good intent. I am talking commonsense, and the prudence and common sense of the farmers of this country back me up. I am not talking just intent, although, for heavens sake, we ought to have some intent down here.

Everything we heard this afternoon in the arguments for and against this bill, particularly for this bill, have shown the weakenesses of it. Are we going to go on and on in our national life propping up one industry after another when it does not work and putting more legislation of this kind?

It is not going to be just cars. It is not going to be just cars and steel and textiles and shoes and a hundred other things.

Mr. Chairman, we are starting down a very dangerous garden path, and we ought to do what we think is right and sensible.

Mr. MOFFETT. Mr. Chairman, if I may reclaim my time, I know the gentlewoman form New Jersey is doing what she thinks is right, and what I am saying and what many of us are saying is that the current situation is not acceptable any longer unless we are willing to say that we are throwing in the towel on factory workers who work on automobiles and automobile components.

Mr. Chairman, I think that many of us who vote for this legislation are saying we are not willing to do that. We are not willing to throw in the towel on these workers.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know how we keep missing the target so much. We are not even talking about reality here. The gentlewoman from New Jersey (Mrs. FENWICK) has offered a good amendment.

We should not be known as "Uncle Welsher" in the world. How can we sit here and say, when we solemnly entered into international agreements, that we are unilaterally not even going back to the conference table but are unilaterally just going to disown them?

This builds no confidence in anybody. Let us now talk about the issue here. The automobile industry is in terrible transition. I feel very sorry for the Members of Congress who represent those areas and who have a lot of unemployed workers. Certainly it is difficult to look them in the face and tell them, "you know, when your industry is restructured, it is not going to be a low-skilled, labor-intensive, highly paid industry when it gets through, because if it is, nobody is going to buy your cars unless they are forced to."

And America is going to be poorer and jobs are going to be transferred to this industry, and other competitive industries in a free America are going to suffer. That is the answer.

Since 1978 domestic consumption of automobiles has dropped by 4.5 million units, and the increase in imports has been one-tenth of that. That is all that has happened in this country. We have just priced ourselves out of the market with our American cars.

□ 1800

They have not been good cars. They have not been properly designed by and large and they are just too expensive and Americans just are not buying them.

Now, the interest rates are too high and there are lots of other reasons, but American Consumers are just not buying them.

The consumer can still make up his mind and he can still do what he wants to. Eventually his old wreck will wear out and he will have to buy a car but he is not going to buy near as many, so the whole industry is going to go down.

One of the most telling things in the testimony we took of some 856 pages was the testimony of the dealers who sell automobiles. They deal with the factory and they deal with the public. They testified 12,000 strong that they oppose this bill. These were dealers that sell nothing but American-made cars and they testified that when they first heard of this bill they thought it was a bonanza. Then they got to thinking about it and looking at the bill and they began to realize that all that was going to happen was that the price of American cars was just going to go up and up and up and they would lose sales.

These are good, hardheaded main street American business people, people that know how to make a buck, who have had to really hussle through thick and through thin. These are not idealist. These are not the SAM GIBBONSES and the MILICENT FENWICKS. No. These are real, practical people.

If we have to have a solution, as the gentleman from Connecticut says, let us not get a solution that hurts us.

The great weight of testimony by all of the disinterested people in this argument is that this transfers some jobs perhaps from some other segment of the American economy to the auto industry and at great cost, $100,000 per job. You could just give four or five of them $20,000 or $25,000 and say "Take off and go see the world or maybe go down to Florida or someplace else" if you are going to do that. It would be cheaper and probably help everybody.

Second, we talk about retaliation in agriculture. We hear so much about that in debate here and so much of it is not germane but let me tell you we have a surplus in capital goods sales. Let us get off agriculture for a while because I think that point is conceded. Agriculture can and will get hurt by this legislation.

In capital goods sales we have a surplus of $36.2 billion. These are manufactured goods. These are goods that are made by the UAW and the IAM and all of the other labor unions.

Our whole deficit in autos is not that much. Do not think other nations will not retaliate against us in our capital goods area. You may say, "Oh, they cannot retaliate against food because we are the only people in the world that produce soybeans." You have a lot to learn about agriculture if you think that is so.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

(By unanimous consent Mr. GIBBONS was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. I want to talk to all of the Members here. This bill is going to be voted on soon. This bill stands a real good chance of passing and a lot of people are going to vote for it because they think it does not mean anything and it will not go anywhere in the other body.

Let me tell you: the other body is holding hearings starting tomorrow on this bill. If you know how the other body works, and I know how it works, they can mark this legislation up and it can be on the President's desk by Saturday or Sunday. That is just the way it can work.

This is not a free ride. This is not a free ride for anybody in the American economy, for the agricultural people or for those people who represent industries that produce a surplus in capital goods. These are the goods that really count. These are manufactured goods.

Of the $36 billion a year that is a surplus, we produced $72 billion for export. We exported $72 billion worth of capital goods last year, so we are competitive.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has again expired.

(By unanimous consent Mr. GIBBONS was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. These are areas in which we are highly competitive. We are going to transfer jobs out of these competitive industries and put them over into a noncompetitive industry, an industry that has to be restructured. Everybody admits that.

While we are seeking a solution let us not hurt America. Let us not hurt American jobs. That is what this narrow, selfish legislation does. It hurts American jobs. It is going to take jobs away from Americans by the thousands in agriculture, in other manufacturing jobs, just because a few lobbyists came in and promised this bill was not going anywhere and this is just a little old message to the Japanese.

It is far more serious than that. I would suggest we vote for the gentlewoman's amendment and we vote down this legislation.

● Mr. BAILEY of Pennsylvania. Mr. Chairman, this debate should not include consistent references to the plight of our basic industries, in particular our automobile industry, as if their difficulties were self-inflicted. The industry is not at fault and is not the cause of our present plight. The industry did not cause the capital shortage from which they suffer. A poor, unrealistic, and outdated tax code here in the United States is the greatest reason for this problem. The industry did not cause the OPEC price increases that dramatically effected a change in consumer preferences. A lack of energy policy in our country has exacerbated this difficulty—not our workers or our industrial leaders. The industry and our workers are not responsible for blatantly anti-American and generally discriminatory industrial policies abroad. Our Government, which has exported capital and technology as perhaps a legitimate foreign policy pursuit in the past and now lacks the resolve to challenge some of these anti-free-enterprise practices—is responsible for the victimization of the American economy. Our companies and our workers are not. This legislation only seeks to make these unknown aspects of modern international life apparent.●

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to the debate on television. I was in a meeting and could not leave. I would like to straighten out two or three things here that need it badly.

In the first place, when we sell on the world market at competitive prices it is not dumping. We have a whole lot of folks that like to think so. The international organizations like for us to hold an umbrella over what we are offering in world trade so that they can sell it right under it and deliver from somewhere else.

This is an old story. It took 3 years to break this practice during Secretary Benson's time back in 1955 and 1956.

Let me explain to you. I have met with the Chancellor of the Exchequer of England, the head of the European Common Market, and others on this matter. I am not saying that I have heard all of the arguments. I have not heard all of the debate. I just want you to realize this, that the world price is the world price.

The world is crying for food. And we sell guns to 125 countries because the leaders prefer guns and military equipment. The best way you can sell something—the only way to sell something is lay it on the counter for sale. Then the folks within a country that need it will start trying to help you get it into their country.

May I say I spent 3 years working at this. I traveled around the world meeting with agricultural attachés and we finally won out, and got the Department of Agriculture to sell competitively.

To handle this we have the Commodity Credit Corporation, which is a revolving fund. That is what it is, a $25 billion corporation.

Your committee brought this in and we have a small revolving fund because the other had fallen into disuse to where nobody realized that is what the Commodity Credit Corporation was.

Now let me repeat again: The world price is the world price and everybody knows it is.

We handle the high cost in the United States by putting a high price here. In other countries they tax their people. So when they sell they are selling because they call that the price all of the time and they are trying to call our supported price, the world price.

Then we get competitive and they yell "dumping."

It is not dumping at all. Every county in the world sells what it has and does not need for what it will bring. You cannot sell it for more than it will bring.

As a boy I worked in a country store. One example I learned still applies to international finance. Who wants to buy from a wholesaler if you do not know whether he is going to have what you need or not? What do we gain when we grudgingly tell the Russians that we will let you have just enough for 1 year?

I am just telling you now that we are being told that by the big American corporations who are also international. The biggest advantage we have over the Russians in the world, is our ability to produce food. What does the world need? Food. We have it and what do we do? We store it? The rest of the world reads where we will not even let it go out at competitive prices.

Now as I said earlier, when we considered the agricultural appropriation bill, we are going to have to go for this "payment in kind." Why? Because the American farmer is in such straits for that capital, or any money, that he needs in order to make a crop next year. He owes $200 billion now, most of it at 15 to 20 percent interest. His debts are such that he is going to have to have any help he can get. But if you start paying in kind and keep it up you are putting all your trade out of business—chemicals, seed, supplies, farm equipment and the people behind the farming businesses.

I want you to realize that we need again to use the Commodity Credit Corporation like it was intended. We need to offer what we have in surplus and not keep it from the rest of the world. We need to make some friends again.

□ 1810

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto terminate at 6:15.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Reserving the right to object, Mr. Chairman, I was going to move to strike the last word here for a couple of minutes. It seems to me we are going to get a time limitation on that.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. OTTINGER. The gentleman may have his 5 minutes. The longer we go, somebody else gets inspired to get up. We have been on this amendment for some time now. Everybody would like to get home. I will not interfere with the gentleman's 5 minutes.

Mr. WALKER. All right.

The CHAIRMAN. Does the gentleman from New York withhold on his unanimous-consent request?

Mr. OTTINGER. No, Mr. Chairman.

Mr. WALKER. Mr. Chairman, reserving the right to object——

The CHAIRMAN. Does the gentleman from New York include the 5 minutes for the gentleman from Pennsylvania?

Mr. OTTINGER. Mr. Chairman, I will include in the unanimous-consent request the gentleman from Pennsylvania (Mr. WALKER).

The CHAIRMAN. The Chair understands the unanimous-consent request is that time will expire at 6:20, with 5 minutes for the gentleman from Pennsylvania, the remaining 5 minutes to be divided among those standing.

Mr. OTTINGER. Mr. Chairman, I have to add the 5 minutes, 6:20.

The CHAIRMAN. If the gentleman wishes to protect the 5 minutes, that means 6:20.

Mr. OTTINGER. All right.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each. The gentleman from Pennsylvania (Mr. WALKER) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER).

Mr. Chairman, I have sat here now for a couple of days listening to the debate on this bill. I really had not intended to get into the debate. Except as I have listened it has bothered me to hear the proponents of the bill come to the well and make what I think are some very damaging statements over a period of time.

I have heard Members come here and say to their friends who are also for the bill, "We don't have to be embarrassed about voting for this bill, there is nothing embarrassing about voting for it, this is a good bill, there is no reason to be embarrassed."

I never heard that really used in terms of a bill before this.

I also have heard this bill described by its proponents as an imperfect vehicle, as all kinds of other things that say to me that they really have real questions about the content of what it is they have brought to the floor.

And then we are being asked here in the last minutes of a session to enact something which is probably a bad bill even under the best of circumstances. And now in the last few minutes we have heard it argued that the United States ought to look at even reneging on its treaty agreements in order to move forward with this legislation, because that is all that I understand the gentlewoman from New Jersey has said in her amendment, is that we ought to live up to our treaty obligations.

It really bothers me that we would come here and we would say that with this imperfect vehicle brought to us at the last minute we are simply going to throw treaty obligations to the wind as well.

It really makes me wonder who it is that is going to vote for this bill and why they are going to vote for it.

Let me suggest a reason, a reason that I have not heard suggested up until now in this debate. Let me suggest that it is a reason that has been given to us on other bills when business related legislation has come to the floor, and that reason is pure and simple, campaign contributions, PAC contributions. Because I suggest to my colleagues that there are not going to be very many Members who vote against this bill who got big money from the UAW. And I would suggest to my colleagues an awful lot of people who are going to vote for this bill got big money from the UAW, and that the reason we are here late in the session thinking about passing this imperfect vehicle is because that big money was dumped into a campaign just a few weeks ago and that we have got ourselves one major kind of political payoff taking place on this floor.

I think that is wrong. And I think it would be particularly wrong to go ahead and adopt an amendment or not adopt an amendment that says that we ought to at least within the context of what we are doing live up to our treaty obligations.

So I thank the gentlewoman from New Jersey for focusing some attention on a place that needed to be focussed in this bill. I hope her amendment will be adopted. I think we should think about what we are doing here, because what we are doing here looks to me to be a pretty shabby affair.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I do not blame the UAW for coming to the floor with this bill. Their workers in this country earn, for wage and fringe benefits, about $17.55 an hour. In Japan it is $7.74. This comparison says the American automobile worker has priced himself out of the market. If they can get this law passed to protect their jobs, you have to take off your hat to them.

But speaking on behalf of consumers of this country, we would be making a very big mistake.

Another feature. It takes about 111 hours in Japan to produce a subcompact car and 200 hours in this country. We have been outhustled by our competitors in this instance, and the answer is not legislation to protect this disparity in the law of this country, but the answer is for the market forces of competition and increased investment to improve productivity so that we can show the people of this world that we are truly competitors.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, it is pretty well settled in the law that treaties may be dealt with by the Congress. I am not aware of what this savings clause would relate to in terms of treaties. But there are many treaties this country has. I am not able to say which are involved. I am also able to say that many of them have terms which are ambiguous.

I do not believe this amendment by the gentlelady from New Jersey is needed, primarily because it is vague and ambiguous. It is, I believe, innocous. It does not, for example, change the present provisions of GATT (article XXIII) which provides an apparatus for determining whether or not conflicts exist. Those procedures are quite useful and allow the United States to make counter challenges relative to the challenging nation's barriers to U.S. exports.

Because the amendment does not change those provisions and does not provide new authority to "gut" this bill, I normally would not object to it. But I still think it is not needed and would urge that it be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in support of the Fenwick amendment.

While some participants in this debate indicated that it was a well-intended amendment and that it was simply something that we could tut-tut, it is certainly not that kind of an amendment.

The Fenwick amendment is an utterly rational amendment which points out another glaring flaw in the bill before us; that is, that the bill violates treaties and agreements and resolutions and promises that this country has made all around the world.

And those who vote against the Fenwick amendment, and vote for this bill will be guilty of violating all those solemn promises.

This amendment is serious. I am proud of the gentlewoman from New Jersey. She will be with us only a short time in the future. I think her amendment is typical of the kind of thoughtful analysis and reasoned approach that she has brought to this House. I congratulate her on making the amendment and tell her that we will miss her.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I hope that the Members are back in

their offices, wherever they may be, listening to this debate. It has not been the purpose of the opponents of this legislation to carry on endless debate, but to have adequate time to point out the defects of this bill.

This is restrictive trade legislation. It will not create jobs. It will cost jobs.

The Congressional Budget Office said this bill would reduce U.S. national income and redistribute the smaller amount of income in favor of those who benefit from this restriction. I say that is not fair. The opponents of the bill agree that it will result in retaliation, will cost jobs, and it will cost jobs in other industries where the wages are much smaller than in the auto industries.

The proponents of this bill talk about reciprocity. But there is not one provision in this bill that refers to reciprocity. It is a slam-the-door-on-imports bill. This is not the answer to a problem within our automobile industry which we all recognize to be extremely serious. We should commit ourselves here and now to the careful consideration of reasonable alternatives.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) for 1 minute to conclude debate.

□ 1820

Mr. OTTINGER. Mr. Chairman, it is quite clear that the other countries of the world that are major automotive manufacturers have much more stringent restrictions than we do. There have been no GATT assertions against them.

We believe this meets the treaty obligations of the various treaties, particularly the GATT treaty. Thirty-one countries already have automobile content restrictions without any treaty violations being asserted against them.

I urge defeat of the amendment.

Mrs. FENWICK. Mr. Chairman, prompted by some statements that were made on the House floor during debate, I would like to offer clarification: The intention of my amendment is that the United States not violate our international agreements, treaties, and conventions. As I read during my statement on the House floor, it is clear that the provisions of this bill do in fact violate article III, paragraph 5 of the General Agreement on Tariffs and Trade, and it is my intention in offering this amendment, to preclude and prohibit any such violation.

None of the remarks made during debate referred to any other interpretation of my amendment and none should later be suggested. Not only does this bill violate our Friendship, Commerce, and Navigation Treaty with Japan which states in article XVI, paragraph 1:

Products of either Party shall be accorded, within the territories of the other Party, national treatment and most favored-nation treatment in all matters affecting internal taxation, sale, dsitribution, storage and use.

It is my intention to preclude and prohibit this or any similar violation of this or any other treaty of friendship, commerce, and navigation, and any other treaty, international convention, or agreement on tariffs and trade to which the United States is a party on the date of enactment of this act.

To the extent that any section(s) of this act violate(s) any such agreement, treaty, or convention, it is rendered inoperable by my amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 17, noes 10.

RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 194, not voting 44, as follows:

[Roll No. 459]

AYES—195

Anderson	Duncan	Livingston
Anthony	Edwards (AL)	Loeffler
Archer	Edwards (OK)	Lott
Ashbrook	Emerson	Lowery (CA)
Atkinson	Erdahl	Lowry (WA)
Badham	Erlenborn	Lujan
Bailey (MO)	Evans (DE)	Lungren
Barnard	Evans (IA)	Madigan
Barnes	Fenwick	Marlenee
Bedell	Fiedler	Marriott
Benedict	Fields	Martin (NC)
Bennett	Findley	Martin (NY)
Bereuter	Foley	Mazzoli
Bethune	Fountain	McClory
Bingham	Frenzel	McCollum
Bliley	Gibbons	McCurdy
Bonker	Gradison	McDonald
Bowen	Gramm	McGrath
Breaux	Green	McHugh
Brinkley	Gregg	McKinney
Brown (CO)	Grisham	Michel
Broyhill	Gunderson	Mitchell (NY)
Burgener	Hall, Sam	Molinari
Butler	Hamilton	Montgomery
Campbell	Hammerschmidt	Moore
Carman	Hance	Moorhead
Carney	Hansen (ID)	Morrison
Chappell	Hansen (UT)	Myers
Chappie	Harkin	Napier
Cheney	Heckler	Natcher
Clausen	Hendon	Neal
Clinger	Hightower	Nelson
Coats	Hiler	Nichols
Coleman	Holt	Obey
Collins (TX)	Huckaby	Oxley
Conable	Hutto	Panetta
Corcoran	Hyde	Parris
Coughlin	Jeffords	Pashayan
Courter	Jeffries	Patman
Craig	Jenkins	Paul
Crane, Daniel	Johnston	Petri
Crane, Philip	Jones (OK)	Pickle
Daniel, Dan	Kastenmeier	Porter
Daniel, R. W.	Kazen	Pritchard
Dannemeyer	Kemp	Quillen
Daub	Kindness	Roberts (KS)
de la Garza	Kramer	Robinson
DeNardis	Lagomarsino	Roemer
Dickinson	Leach	Roth
Dicks	Leath	Roukema
Donnelly	Lent	Rudd
Dornan	Levitas	Sawyer
Dreier	Lewis	Scheuer
Schneider	Solomon	Wampler
Sensenbrenner	Spence	Weber (MN)
Shaw	Stanton	Weber (OH)
Shumway	Staton	White
Siljander	Stenholm	Whitehurst
Simon	Stump	Whittaker
Skeen	Synar	Whitten
Smith (AL)	Tauzin	Winn
Smith (IA)	Thomas	Wolf
Smith (NE)	Trible	Wyden
Smith (OR)	Vander Jagt	Wylie
Snowe	Walker	Young (FL)

NOES—194

Akaka	Gejdenson	O'Brien
Albosta	Gephardt	Oakar
Andrews	Gilman	Oberstar
Annunzio	Gingrich	Ottinger
Applegate	Ginn	Patterson
Aspin	Glickman	Pease
AuCoin	Gonzalez	Pepper
Bafalis	Goodling	Perkins
Bailey (PA)	Gore	Peyser
Beilenson	Gray	Price
Bevill	Guarini	Rahall
Biaggi	Hall (IN)	Rangel
Boland	Hall (OH)	Ratchford
Boner	Hall, Ralph	Regula
Bonior	Hatcher	Reuss
Bouquard	Hawkins	Rinaldo
Brodhead	Hefner	Ritter
Brooks	Heftel	Rodino
Broomfield	Hertel	Roe
Brown (CA)	Hillis	Rogers
Burton, Phillip	Hopkins	Rose
Byron	Horton	Rosenthal
Clay	Howard	Rostenkowski
Coelho	Hoyer	Roybal
Collins (IL)	Hubbard	Russo
Conte	Hughes	Sabo
Conyers	Hunter	Santini
Coyne, William	Jacobs	Savage
Crockett	Jones (NC)	Schroeder
Davis	Jones (TN)	Schumer
Dellums	Kennelly	Shamansky
Derrick	Kildee	Shannon
Dingell	Kogovsek	Sharp
Dixon	LaFalce	Shelby
Dorgan	Lantos	Skelton
Dougherty	Latta	Smith (NJ)
Dowdy	Leland	Snyder
Downey	Long (LA)	Solarz
Dunn	Long (MD)	St Germain
Dwyer	Luken	Stark
Dymally	Lundine	Stratton
Dyson	Markey	Studds
Early	Martin (IL)	Swift
Eckart	Martinez	Taylor
Edgar	Matsui	Traxler
Edwards (CA)	Mattox	Vento
English	Mavroules	Volkmer
Ertel	McCloskey	Walgren
Evans (IN)	McDade	Washington
Fary	McEwen	Watkins
Fazio	Mica	Waxman
Ferraro	Mikulski	Weaver
Fish	Miller (CA)	Weiss
Fithian	Miller (OH)	Whitley
Flippo	Mineta	Williams (MT)
Florio	Minish	Williams (OH)
Foglietta	Mitchell (MD)	Wilson
Ford (MI)	Moakley	Wirth
Ford (TN)	Moffett	Wolpe
Fowler	Mollohan	Wortley
Frank	Motti	Wright
Frost	Murphy	Yatron
Fuqua	Murtha	Young (AK)
Garcia	Nelligan	Zablocki
Gaydos	Nowak	

NOT VOTING—44

Addabbo	Evans (GA)	Rhodes
Alexander	Fascell	Roberts (SD)
Beard	Forsythe	Rousselot
Blanchard	Goldwater	Schulze
Boggs	Hagedorn	Seiberling
Bolling	Hartnett	Shuster
Brown (OH)	Holland	Smith (PA)
Burton, John	Hollenbeck	Stangeland
Chisholm	Ireland	Stokes
Coyne, James	LeBoutillier	Tauke
D'Amours	Lee	Udall
Daschle	Lehman	Yates
Deckard	Marks	Young (MO)
Derwinski	Pursell	Zeferetti
Emery	Railsback	

□ 1830

Mrs. KENNELLY and Mrs. BOUQUARD changed their votes from "aye" to "no."

Mr. EMERSON and Mr. PICKLE changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1840

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Chairman, I am a strong supporter of this legislation but have waited until now to speak on behalf of it. I have listened as attentively as possible to the debate and I will have to say that I am disappointed to hear the bill's opponents so freely invoke free trade arguments against it.

Mr. Chairman, if there is anything we have learned here today it is that free trade does not now govern the commercial relations between nations. To the extent that free trade influences those relations, it certainly does not extend to the Japan-to-America automobile trade.

Our domestic automobile market is being saturated with cars built in Japan and subsidized by the Japanese Government. This is not free trade and the bill should not stand or fall on the basis of a concept that no longer exists in the international economy.

What this bill does represent is reciprocity, and I submit that on that basis, it asks no more of Japan than Japan and our European allies now ask of U.S. manufacturers seeking to penetrate their markets.

Those of my colleagues with defense contractors in their districts should be aware of the domestic content clauses that are built into the contracts between our NATO partners and U.S. contractors. For example, the F-16 is built by General Dynamics in Fort Worth, Tex. It is sold to the Netherlands, Denmark, Norway, and Belgium under a coproduction arrangement. These countries will not buy the F-16 unless some of its components are produced domestically and the plane is assembled domestically.

And since this discussion centers around our relations with Japan, my colleagues should be aware of a 1980 contract between McDonnell Douglas and Japan for over 120 F-15's. Approximately 55 percent of the component manufacturing is done by Mitsubishi in Japan and all final assembly will be done in Japan.

Mr. Chairman, I predict that any American company that tries to compete for the next-generation plane sale to Japan will have to offer a local production arrangement or it will not gain entry into Japan's market.

The reason why Japan insists on these clauses as the price for doing business is very simple and should be familiar to everyone following this debate. Japan wants to protect its job market. Japan wants to develop a domestic aerospace industry and it does not want another nation saturating its market with foreign products.

Mr. Chairman, Japan is demanding nothing more than any self-respecting industrial power would demand to protect its manufacturing base. The only difference is that Japan is not the target of a predatory trading policy by one of its partners. The United States is such a target, and we must not shrink from taking the steps needed to restore our trade balance.

I strongly urge my colleagues to vote in favor of this very important piece of legislation.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Ohio.

PERSONAL EXPLANATION

Mr. SEIBERLING. Mr. Chairman, I wish to have the RECORD show that while I got here too late to vote, had I voted on the amendment just agreed to, I would have voted "no."

Mr. GLICKMAN. Mr. Chairman, this is a very difficult proposition for a lot of us, realizing that our districts are dependent upon exports, and at the same time realizing the enormous level of unemployment not only in the auto industry, but in so many different industries. I have gone from pro to con, and I think maybe I will vote for it because it will send a signal.

I was listening on the floor, and I heard the words of our chief deputy whip, Mr. ALEXANDER, and he used the word "retaliation." That really hit me. I decided that if in fact this bill is retalitation, it is tantamount to nothing more than the start of the largest trade war we have ever faced in America. While we are being victimized by inconsistent policies with respect to the Japanese and the European Economic Community, in my judgment over the long term this bill will hurt America, not help it.

My district is the largest producer of airplanes in the United States. I come from the State of Kansas, which is the largest wheat producer in the United States. My district lives on exports. We survive on exports, and we will die as a result of a lack of exports. I cannot help but feel that this bill is nothing more than a symbol that will try to aim at retaliating against Japan or retaliating against the European Economic Community. It is going to hurt my machinists at Boeing. It is going to hurt my farmers and cost them jobs in the long term.

I think that is bad for America. We face the highest unemployment since the Depression. I feel for the auto workers. I feel for people all over America who are unemployed, but I would argue that if we have to be protectionist, let us do so in a positive way. Let us fund the Eximbank the way the Europeans do it, and provide affirmative assistance to our industries. But, let us not put up trade barriers couched in an indirect bill that came out of the Commerce Committee that is really nothing more than a major trade bill aimed at retaliation, knocking the heck out of the Japanese and the West Germans and everybody else.

Everybody acknowledges that this bill is not a very good bill. I keep hearing the word "symbolism" and "retaliation." I think to myself, I have got to look at each one of these bills as if they are going to pass. This bill could pass. It could go to the Senate in this time of high unemployment, and it could go to the President. Who knows what the President might do?

I would just say one thing: This world is very close to a worldwide depression in terms of the international banking community, in terms of all the Third World nations in the world, in terms of the solvency of the United States of America itself. If we start a major war, albeit for good reasons, to put our auto workers back to work, I am telling the Members that we will all live to regret it; the workers in Wichita, the workers in Detroit, the workers throughout America. So, I would urge the Members to think about this: No matter what kind of a signal it sends, over the long term it has got to be a very bad signal for America.

I urge defeat of the bill.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from North Carolina and myself have about 36 unrequited amendments at the desk. We have determined that we believe the House would like to come to a vote on this matter, and it is our intention not to offer those amendments.

I yield to the distinguished gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I thank the gentleman for yielding. I do hope that the Members have been listening to this debate. It is not our purpose as opponents of this bill to carry on endless debate. All we wanted to do was to have some time to point out the defects of this bill; its unworkability, and its unfairness.

We are urging the Members to vote no on this bill and not to set these precedents that are contained therein.

Mr. FRENZEL. Mr. Chairman, we have tried to show through this debate that this bill will cause a loss of jobs, a 150,000 net loss, according to CBO; that we will lose exports, that we will lose world competitiveness,

that this bill will cause an extended recession; that it will penalize U.S. manufacturing jobs; that it will penalize high tech growth industries and jobs; that it will penalize stevedoring jobs; that it will penalize agricultural producers; that it will penalize consumers by driving up the cost of cars from $330 to $1,500, depending on whose analysis one likes.

We have tried to show that it violates treaties and pledges and resolutions. We have tried to indicate to the Members that it is a mean-spirited protectionist bill when what is really needed is some sort of reciprocity power in the hands of the executive to negotiate for all of us.

Mr. Chairman, we do not want to prolong this debate unnecessarily, and we hope that we are nearing a final decision.

Of all the amendments I have placed in the RECORD, two should have been offered except for the shortage of time.

The first is the Michel amendment, placed in the RECORD by the distinguished minority leader from Illinois. It would give the Secretary authority to waive the act if the act would impede achievement of the purposes of the Humphrey-Hawkins Act. Obviously this bill would impede the achievement of both the chief purposes of Humphrey-Hawkins, employment and inflation. The CBO says it will cause a net loss of jobs and a huge increase in the price of cars.

The only people who would vote against this Michel amendment would be those who do not believe in Humphrey-Hawkins objectives or who believe every economic analysis we have received is wrong. It is another amendment which shows the terrible flaws in H.R. 5133.

My own reciprocity bill, H.R. 6773, also points out the fact that H.R. 5133 is purely protectionist. Under our rules, I could not offer it as a substitute. However, it is an honest attempt to provide the Executive with tools so we can negotiate more effectively for reasonable market access abroad.

It stands in stark contrast to the mean-spirited protectionist domestic content bill. Should domestic content ever come before this body again, which now appears likely, I will find a way to offer all my amendments and to secure record notes on items. But, for now, my Christmas present to my colleagues will be an early adjourment tonight.

□ 1850

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief.

The House has recently adopted the Fenwick amendment. The Members who argue against the Fenwick amendment say that we are not violating any agreement or any treaty.

We are probably going to have a separate vote on this amendment, and a lot of arms are going to be twisted trying to get Members to change their position. I think it is important to concentrate on the Fenwick amendment right now.

One of the responsibilities of being American is that we have got to lead. We cannot lead unless we are willing to set an example for decency and honesty. If we make an agreement, we ought to keep it or we ought to go back to the bargaining table and say that we would like to abrogate it. But certainly in this Congress on a piece of legislation that is all fouled up, we should not willy-nilly act in this way.

I really do not know offhand of any damage that the Fenwick amendment does to this bill, but certainly we should not mark ourselves as people who do not keep a bargain that we fairly entered into. I do not know that we would be violating anything with the Fenwick amendment, but just to turn down the Fenwick amendment once it had been adopted, I think, would put a stigma not only on this legislation but on this Congress and certainly on our country.

So, Mr. Chairman, I ask the Members, please, to stick with the Fenwick amendment.

Mr. HERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the 3½-year crisis in the U.S. auto industry has taken an awesome toll. Unless we adopt a policy that deals with realities of auto trade and investment, the deterioration of the auto industry, which impacts so heavily on allied industries, will continue at an intolerable rate—even if U.S. auto sales revive.

The United States can no longer afford to have a passive trade and industrial policy toward the industry when all other major auto-producing nations are promoting their industries, pushing their exports, and preventing increases in imports. The Fair Practices in Automotive Products Act, H.R. 5133 is designed to defend our industry in light of the practices prevailing around the world.

This bill provides a more than adequate phase-in period for foreign companies to make the necessary investments here to maintain their market shares. As a result, U.S. consumers would continue to have the range of product offerings they desire. And, because U.S. companies would continue to face stiff competition, there should be little increase in U.S. car prices.

Because of the urgency of the situation and the limited time in the Legislative Calendar, action on H.R. 5133 becomes more vital to an improved economic climate sustained by increased employment in the auto and related industries.

There are numerous myths which surround the causes for the deteriorating state of the auto industry in this country. There has been much criticism of the American labor force in this debate; accusations of high costs and low productivity. I think that it is vitally important that this body listen to some figures from the 1982 Japan and international comparison study by the Keizai Koho Center, at the Japan Institute for Social and Economic Affairs.

The annual earning and tax benefit position of a typical worker in a major company, calculated according to the average annual exchange rate of the International Monetary Fund, shows the gross annual earnings of a typical worker in the United States to be $14,949. The typical Japanese worker's annual gross earnings are $16,960. Of the 11 major United States trading partners, the typical American worker ranks eighth.

Furthermore, in comparative levels of labor productivity, the typical American worker outproduces every other worker in major countries.

I think we do our workers a grave disservice by underestimating the skills and ability of our people.

Our auto policy is out of step with the rest of the world. Other major auto-producing nations are actively promoting exports, preventing increases in imports, and financially assisting their home-based producers. To continue our passive trade and industrial nonpolicy in such a hostile global environment means that, even when auto sales recover, U.S. production will fall behind the pace.

H.R. 5133 would prevent further catastrophic erosion of auto production and employment in the world's largest auto market. It would curb the alarming rise in foreign sourcing by U.S. companies while inducing foreign-based companies to invest here. Because of the magnitude of the industry and the ripple effect on suppliers, the bill would create or preserve over a million additional jobs in the U.S. economy by 1990.

Those who oppose the domestic content bill raise red flags of possible trade wars. I must respectfully disagree with these Members of Congress because there we are already in a trade war and our Nation has suffered more serious losses than any sneak attack in any conventional war. It is burying our heads in the sand to believe that worldwide economic upturn will improve the economic conditions in the auto industry. To do nothing about the tragic condition of one of our fundamental industries, is to raise a white flag of surrender. We soon will be economically conquered and our people will be paying their tax dollars in tribute for the defense of foreign markets which are now exploiting them.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am one of the cosponsors of this bill, but some of the things that have been said during this debate have troubled me a great deal.

I do not want to see retaliation against the Japanese. I think most of us have great respect and admiration for the Japanese. They are one of our most important allies. They are people who have risen from the ashes of war through their own talents and hard work. We need to learn some things from the Japanese.

That is not really the issue here. The issue here is whether the American people and the Congress are going to take the steps necessary to see that we survive as a major industrial power. It is inconceivable to me that we can be a major industrial or military power if we allow our automobile industry to go down the drain.

What are we going to do in the event of a war? Have our tanks made in Japan and bring them across the ocean? Have our steel made in Brazil?

Those are some very basic questions which this Government and this Congress are not answering. There are some other basic questions.

Do we want to become a colonialized nation exporting agricultural products and raw materials and timber, or do we intend to remain in the forefront of the industrial world, including high-technology industry?

There are some very serious issues here. I detect on both sides of this debate by our colleagues some genuine concerns that we all share, and I think the argument is mainly over means rather than ends.

However, I am sorry to say that an administration that does not want the Government to have any role at all and wants the marketplace to do everything cannot possibly confront this problem, in competition with a country like Japan, where the government and industry work closely together in an effort to see that their nation meets its economic targets and priorities. We do not have any comparable mechanism for developing national economic targets, and, of course, no targets either.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. On that point, Mr. Chairman, let me say that currently in Japan the issue of automobiles is behind them. They know that Korea and Taiwan and other South Asian countries can outproduce them at cheaper costs then they can. They are now in the process of the next wave, and let me say to my good friend, the gentleman from California, that that is computers and robotics. Their government is spending a billion dollars in research to develop the computers and robotics that will beat ours because of the combined efforts of their government, their industry, their banks, and their unions.

Mr. Chairman, if we do not know that, then we deserve what is going to happen to us.

Mr. SEIBERLING. Mr. Chairman, I will reclaim my time.

Let me say some constructive things here, because there have been some destructive things put out on the floor and I hope we do not end on that note.

A country which has as its means of fighting inflation only the elevation of interest rates to astronomical levels cannot effectively compete with a country whose interest rates are maintained at half our level, so that industry can borrow whatever capital it needs at a competitive price.

A country which does not provide workers with job security and a share of the profits, so that they have an incentive to help their employers become more productive, cannot compete effectively with a country that provides its workers with those kinds of incentives.

I could go on and on. There are bills in this Congress to encourage such worker incentives, to encourage worker retraining, et cetera. These are all things that the Japanese are doing and we are not doing. I mention these merely to illustrate that there are long-range problems which we are not addressing because we do not have a comprehensive industrial strategy.

I would also note that a nation that, year after year, pours $200 billion and more into military spending—as both the United States and the Soviet Union are doing—cannot compete effectively with another great industrial power, Japan, that devotes virturally all of its capital and human resources to modernizing its plants, training its workers, and developing products that have economic value in the consumer markets of the world.

□ 1900

Somebody said to me the other day, "Is this bill not just a Band-Aid?" I said, "Yes, it is a Band-Aid, and, in the long run unless we have a competitive auto industry or any other industry, it is not going to survive. But when you are bleeding you had better have a Band-Aid because if you bleed to death you are not going to live to the long run. Our first aim must be to survive in the short run."

While this is not a perfect bill and we all know it is not going to become law in this year, I think, it serves a tremendous purpose if it forces every one of us, including the administration and the American people, to start thinking about this problem of whether we intend to survive as an industrial power, which industries are essential, and how to keep them alive and well.

● Mr. MURTHA. Mr. Chairman, I want to point out some facts which indicate the stakes involved in H.R. 5133.

U.S. jobs: Approximately 2.4 million jobs in this country are related to auto production directly or indirectly. The industry provides critical support for other key industries, particularly in steel, rubber, glass, aluminum and even high-technology areas of robotics, computer-aided design and computer-controlled equipment. Without Government action, however, U.S. auto-related employment is projected to fall to half that required to supply the domestic auto market by 1990. Enactment of H.R. 5133 would create or preserve more than 600,000 jobs by 1986 and more than 1.3 million by 1990.

Transfer payments and taxes: The potential loss of more than 1.3 million jobs would cost the Federal Treasury an estimated $25 billion annually in increased transfer payments and in lost tax revenues.

Balance of trade: The United States-Japan trade deficit in automobiles has grown to $47 billion over the last 5 years—$13 billion last year alone—thus putting an intolerable strain on the dollar. The Japanese, meanwhile, have kept the yen undervalued by at least 25 percent, bolstering burgeoning exports.

Preserving our internal markets: No advanced nation willingly surrenders crucial internal markets to imported goods. Yet absent enactment of content legislation, imports will account for 40 percent of the U.S. market in cars and light trucks by 1990, according to Merrill Lynch Economics.

Because of the high proportions of minorities employed by the auto industry, they have a particularly important stake in this bill. Of the 270,000 workers now laid off from the Big Three, AMC, and VW, at least 100,000 are minorities and women. As a result, implementation of affirmative action hiring and training programs have stalled pending the recall of those laid off.

IMPLEMENTATION OF H.R. 5133

A sliding scale would determine the ratio of domestic content required. A company with annual vehicle sales exceeding 900,000 units would be required to achieve a domestic content ratio of 90 percent; a company with sales of 200,000 would need only 20 percent domestic content, and so forth.

The rules can be met: GM, Ford, Chrysler, VW and AMC-Renault currently have sufficient domestic production and supplies to exceed their content ratios for model 1986 and beyond. Honda can meet its ratio utilizing its new U.S. car assembly plant and boosting its purchases of domestic parts as VW has done. Toyota, Nissan,

Toyo Kogyo, and Mitsubishi, would need—finally—to implement plans for production and purchase of parts here. Other companies with sales below 100,000 will not be affected.

IMPACT ON COMPETITION AND PRICE

Competition would be fairer under domestic content legislation as foreign and U.S. manufacturers vied to give U.S. buyers the best in technology, service, quality, and price under the same rules.

Prices would be relatively unaffected by content legislation contrary to what some critics have claimed.

THE PRINCIPLE BEHIND H.R. 5133

The United States is alone among major industrial nations in permitting its domestic markets to be overrun by imports in key sectors. No fewer than 31 countries now enforce some kind of content legislation; others use quotas, tariffs, and so forth. The content principle is based on elementary fairness: sell as much as you want here, but let some of the people who buy it build it as well.

HOW H.R. 5133 WOULD WORK

The rules of H.R. 5133 are designed to assure a healthy and competitive domestic auto industry. The bill takes into account the fact that a few giant vehicle manufacturers decide where production takes place to supply the U.S. market. Their strategic decisions determine the livelihood of hundreds of thousands of American workers.

The bill imposes obligations only on companies with sales exceeding 100,000. Ten auto companies have that many sales in the United States today: GM, Ford, Chrysler, Nissan, Toyota, Honda, VW, Toyo Kogyo, AMC, and Mitsubishi. The bill provides for a 1-year grace period, after which the requirements are to be phased in by thirds in each of the next 3 years.

A company's local content requirement depends on the level of its sales. A company's content requirement is based on a smooth scale that starts at 100,001, then rises until 900,000, where it levels off. From model year 1986 onward, the content percentage, up to a maximum of 90 percent, is derived by dividing sales by 10,000. Thus, sales of 355,000 entail a 35.5-percent requirement; sales of 500,000 entail 50 percent.

The content ratio of a company is based on its sales, exports, and imports of original equipment automotive parts and vehicles. Its imports less its exports equal its net imports. The local content percentage is derived by taking 100 percent and then subtracting a company's net imports as a percentage of its sales. For example, a company would have 90-percent local content if its net imports represent 10 percent of its U.S. sales. It has 40-percent local content when net imports are 60 percent of sales.

GATT, RETALIATION, AND U.S. EXPORTS

Some critics of H.R. 5133 argue that retaliation against U.S. exports would nullify the gains to the auto industry. The assumption that massive retaliation from Japan is likely cannot be supported by a careful analysis of auto policies around the world, the political context of the GATT, and Japan's trade patterns.

Japan has never brought a GATT complaint, much less retaliated, against the dozens of countries which restrict Japanese auto exports much more stringently than H.R. 5133. Indeed, to achieve or maintain their market presence, Japanese auto companies have invested in many of those countries.

The GATT procedures require that Japan first meet with the United States to try to iron out difficulties before a formal complaint is filed. If Japan were to file a formal complaint, the United States could file countercharges against the auto policies of Japan and many other GATT members in Europe, Australia, Latin America, and Indonesia.

An analogous situation occurred after the United States enacted Domestic International Sales Corporation (DSC) legislation giving special tax breaks to exporters in 1971. At that time, several European countries lodged complaints with the GATT. The United States countercharged against policies of those countries and argued that, if the DISC did violate the GATT, those countries were also violating the GATT with comparable measures. In effect, the United States defended the DISC as necessary for U.S. exporters to compete fairly on the world market because other countries were subsidizing their exports. Several years later, a GATT panel ruled that both the DISC and the foreign rules did violate the GATT. Since that time, the other countries have not changed their practices, nor has the United States modified the DISC to conform to the GATT.

Likewise, the Fair Practices in Automotive Products Act is a modest defensive measure; the quotas, content rules, and export requirements of other countries are generally far more severe than this legislation.

As a practical matter, Japan has a very limited capacity to take action against the United States even if it were to go to the GATT and prevail. If Japan could win a GATT ruling against U.S. auto content legislation, the United States could win rulings against the auto policies of most other auto-producing countries. Even if that point should be reached, it would not be in Japan's interest to take action against U.S. exports.

Japan buys from the United States only what it cannot make for itself: raw materials and products using technology it does not yet have. For many of these products, the United States is Japan's predominant supplier; and for those imports for which Japan does have alternative sources, those source countries have auto policies far more restrictive to Japanese auto imports than the proposed U.S. legislation: Australia, Argentina, Brazil, Indonesia for foodstuffs and raw materials; European countries for manufactured goods. Japan could retaliate against modest U.S. auto content legislation only by buying less from us and more from countries with auto policies which limit their exports even more severely than would H.R. 5133.

EFFECT OF DOMESTIC CONTENT LAW ON AUTO PRICES

The domestic content law would have a very limited effect on prices of U.S. cars because it does not reduce competition in the U.S. market.

Based on extreme assumptions, the CBO predicted that the original H.R. 5133 would boost car prices 6 percent. They assumed that H.R. 5133 would function as a quota bill, reducing competition by shutting imports out. Instead, H.R. 5133 is an investment bill, which will cause foreign car companies to put plants here in order to maintain access to the U.S. market. Therefore, competition in the United States will be stiffer, and the increase in car prices far less than CBO concludes.

A widely publicized study by Harbridge House has predicted very large price increases. That study, financed by the import dealers' association, combines a distortion of the experience of the last year with unfounded projections about the future. Since restraints on Japanese car exports to the United States began in early 1981, lists prices of U.S. cars have risen at a 5- to 6-percent rate—less than the Nation's inflation average. Moreover large and expanded rebate programs have meant effective price increases of even less. Price increases for this fall's models show continued moderation.

The public incorrectly perceives that car prices have been rising rapidly because of sticker shock. People go several years between buying a car and are surprised at the increase in prices since their last purchase. In fact, auto prices have been rising at a lower rate than overall inflation for several years. Prices for new cars have been less than the overall price index for the last 4½ years. Contrary to the critics of the Japanese export restraint, new car prices have continued lower than average inflation since they took effect in April 1981.

PRICE INCREASES—CPI

	New cars	All items
Mar. 1978 to Mar. 1979	7.6	10.3
Mar. 1979 to Mar. 1980	8.0	14.6
Mar. 1980 to Mar. 1981	4.2	10.5

PRICE INCREASES—CPI—Continued

	New cars	All items
Mar. 1981 to Mar. 1982	6.3	6.8
Mar. 1982 to Sept. 1982	[1] 3.4	[1] 3.6

[1] Anual rate.

Source: Bureau of Labor Statistics.

U.S. PRODUCTION OF NEW CARS THREATENED BY DISTORTED EXCHANGE RATES AND BORDER TAXES

The United States will lose at least 700,000 auto-related jobs—particularly in production of smaller cars—if the U.S. Government does not require local production by all major auto companies selling in this market. Because the auto industry has long lead times, the companies must often decide where to source parts or vehicles 2 or 3 years before production and shipments begin. Thus, today's decisions to obtain new parts or vehicles abroad may not show up as imports and lost U.S. jobs until 1984 or later.

A number of factors subject to Government policy are now swaying auto companies—both foreign and domestic—against U.S. automotive production. Among the key factors have been skewed exchange rates particularly of the dollar and yen, the border tax adjustment rules, and activist auto policies among foreign governments.

Distorted exchange rates, particularly the undervaluation of the yen relative to the dollar, represent a substantial barrier to companies deciding whether to invest in the United States. The yen now stands at over 250 to the dollar but many experts believe that, for trade purposes, it should not exceed 200. With the dollar's yen value now 25 percent above its proper value, when a company now compares production costs between the two countries, it finds U.S. production costing 25 percent more than it should relative to Japanese production.

Extremely tight U.S. monetary policy accounts in major part for the overvalued dollar. Record high real interest rates here have raised demand for dollars to invest here. In addition, by slowing growth here and abroad, our tight monetary policy has shaken world confidence and created new demand for the dollar as a "safe haven" investment.

In addition, the Japanese Government has been derelict in not taking the necessary measures to shore up the value of the yen. While they may not be intervening in exchange markets to bid down the yen's value, that is not satisfactory. Japan should be convincingly intervening in the exchange markets to bid up the yen. In addition, the Japanese Government should raise the yen's value by encouraging greater investment in Japan and putting stiffer restrictions on capital outflows from Japan. Unfortunately, they are reluctant to take such measures because most of their growth in output over the last 2 years has come from expanding their net exports.

The international rules for border tax adjustment are also biased against U.S. production. Those rules allow indirect taxes—on which Japan and European countries tend to rely—to be rebated on exports and charged on imports. The United States relies more on direct taxes which are neither rebated for our exports nor charged on competing imports. This means that auto imports from Japan bear few taxes in either Japan or the United States, but U.S. exports to Japan face substantial taxes in both places. The theoretical economic argument that this distortion will be offset by a lower U.S. exchange rate is clearly nonsensical today.

With its passive policy toward the auto industry, the United States inevitably has growing net imports. All other major auto-producing centers—Japan, Europe, and Brazil—have adopted a combination of policies that assure net auto exports. These other countries have vigorously promoted their local production and exports by subsidies, favorable credit terms, stiff import restrictions, and export requirements.

U.S. production of new cars and trucks, including their parts, now represents only three quarters of the value of automotive sales in our market. We now have net imports equivalent to a quarter of our new vehicle sales. If the U.S. Government fails to take action, that ratio can be expected to fall to one-half by 1990 or sooner.

JOBS IMPACT OF CONTENT

If the domestic auto content bill is enacted during the 1983 model year, by 1986 the United States stands to gain 637,000 jobs. Of these, 150,000 would be in the auto industry itself—mainly at new Toyota and Nissan plants and retained "Big Three" plants—and 487,000 in other industries. By 1990, the law would create or preserve 1,386,000 jobs that would otherwise be lost. Of those, the auto companies would provide 213,000 more jobs, suppliers to the auto companies would have 503,000 more jobs, and the ripple effect throughout the rest of the economy would create an additional 670,000 jobs.

	1986	1990
Core auto jobs	150,000	213,000
Directly auto related jobs	354,000	503,000
Other spinoff U.S. jobs	133,000	670,000
Total	637,000	1,386,000

Basis for figures: Without content requirements, the import share of the U.S. car and light truck market will rise from 28 percent in 1982 to 35 percent in 1986 and 40 percent in 1990; with content, it would stay at 28 percent. Without content, the U.S. content of domestic-based companies' vehicles will fall from 95 percent today to 85 percent in 1986 and 80 percent in 1990; with content, it would only be able to fall to 90 percent. Without local content requirements, vehicles sold here by foreign-based producers will average less than 20 percent U.S. content; with content, they will average 51 percent.[1] Each auto job supports 2.36 direct auto related jobs.[2] Each auto job is associated with 3.25 other U.S. jobs in 1986 and 5.5 other jobs in 1990.[3]

AUTO CONTENT AND EQUAL OPPORTUNITY

The auto crisis, the effects of which will recede only if significant direct foreign automotive investment is required by law, has been particularly disastrous for women and minority workers.

Many of the plant closings have occurred in areas with heavy concentrations of blacks and Hispanics. Women too have been hard hit. Of the 30 largest auto plant shutdowns since 1980, all but a handful have occurred either in frostbelt cities or on the two coasts. Confidential company data, much of it compiled for EEOC requirements, show that women, blacks, and Hispanics have paid heavily.

Auto has always employed a high relative proportion of minority workers and women. While minorities constituted about 11.2 percent of U.S. workers, they held about 22.4 percent of U.S. auto jobs in 1978–79. Blacks alone were 9.3 percent of the U.S. work force, but 19.2 percent in auto. The decline in auto employment from 1978 to 1982 has cut minorities' share of auto employment to about 20 percent and blacks' share to under 18 percent.

Since minorities have held about twice the share of auto jobs as their share of all U.S. jobs, the auto slump has hit them twice as hard.

In 1978–79, women held 15.8 percent of U.S. auto jobs; today, with layoffs outpacing affirmative action, the figure is 15.5 percent. In blue-collar auto jobs, women's share has fallen from 14 percent in 1978–79 to 13.5 percent in 1982.

The auto industry, whose contracts with the UAW insure equal pay for equal work and which provide decent incomes to all auto workers, has been a large source of minority income in

[1] (a) Without law: Renault/AMC at 70 percent U.S. content, VW at 40 percent, Honda at 31 percent, Nissan/Fuji at 13 percent, and all other imports at 6 percent, based on 1981 sales level; (b) with law: Nissan/Fuji at 74 percent U.S. content, Toyota at 71 percent, Renault/AMC at 70 percent, VW at 40 percent, Honda at 37 percent, Toyo Kogyo at 25 percent, Mitsubishi at 15 percent, and all other imports at 6 percent, based on 1981 sales levels.

[2] Source: "BLS 1979 Employment Requirements Table," Oct. 23, 1981.

[3] Source: U.S. Congressional Budget Office, "The Fair Practices in Automotive Product Act: An Economic Assessment," August 1982.

the United States Auto jobs are good jobs; we are proud of that. They allow autoworkers to enjoy a decent, reasonable standard of living. Nearly all auto workers—be they white men or Hispanic women—earn between $9 and $13 an hour. There are very few jobs in the U.S. economy in which minority and female workers earn as much, even though something like half of white males earn as much or more.

Not only does contraction in auto cost women and minorities a disproportionate share of jobs, therefore, but also of income. Each time a woman loses an auto job, female national income falls by as much as if more than three women in average occupations became unemployed. For male minority workers, auto job loss is more than twice as costly as average minority unemployment.

In its analysis of the potential impact of a Chrysler bankruptcy, DOT estimated that the loss of income by just the 38,000 minority workers employed by Chrysler in 1979 would have reduced national black income a full 1 percent.

U.S. AUTO INDUSTRY SHOWS HIGH PRODUCTIVITY GROWTH

Productivity growth in the auto industry has proceeded at a healthy 3.2 percent clip since the late 1950's, substantially higher than the 2.7-percent rate attained by the entire manufacturing sector. This is in spite of the all too frequently cyclical downturns suffered by auto.

Even as the current slump deepened, the motor vehicle and parts industry was able to show a 4.7-percent increase in productivity from 1980 to 1981. That remarkable performance attests to the competence of the work force as well as to the robust spending in capital equipment by the domestic auto companies.

CAPITAL SPENDING IN AUTO, TRUCK, AND PARTS MANUFACTURING

	1978	1979	1980	1981
Amount (in billions)	$4.65	$5.36	$9.06	$10.08
Increase from previous year (percent)	14.5	15.3	69.0	11.2

Source: McGraw-Hill Economics Department.

CLAIMS THAT U.S. AUTO INDUSTRY PRODUCTIVITY LAGS WOEFULLY BEHIND JAPAN'S ARE GREATLY EXAGGERATED

The Japanese Productivity Center [4] has recently issued a study on comparative labor productivity between the United States and Japan. The study estimates that Japan's auto industry has finally pulled ahead of the United States holding a slight—1 percent—lead in productivity in 1980. In 1979, the United States was ahead of Japan by 11 percent.

[4] The JPC is an independent Tokyo-based think-tank with researchers representing labor, business, and academia.

These figures seriously call into question some U.S. studies which show Japan holding a tremendous productivity edge vis-a-vis the United States. Moreover, productivity changes depend strongly on utilization of capacity. The Japanese gains from 1979 to 1980 must therefore be put in the proper perspective: First, extremely favorable conditions in Japan, where there was a 15-percent increase in production, coupled with, second, the massive auto crisis in the United States where unit output plunged 30 percent.

QUALITY, SAFETY, AND INSURANCE COSTS: MYTHS AND REALITIES

Quality: Everyone talks about fit and finish, where the Japanese excel. But there is more to quality than that. In fact, both VW and Honda have attested to better quality at their U.S. operations than for identical products built in Europe or Japan. Jim McLernon, former head of Volkswagen of America, says that VW's built in Pennsylvania are superior to the ones built in Germany. Honda officials say that 90 percent of their Japanese motorcycle output could go to the dealer directly from the production line; the corresponding portion of their Belgian output was 85 percent and for the U.S. output it was 95 percent.

Honda has begun to assemble Accords in Ohio, and they are not worried about whether Americans can do the job right. The following remarks were made by Hideo Sigiura, executive vice president of Honda, at the Automotive News World Congress in Detroit on August 25, 1982:

Our motorcycle plant started operation in September 1979. It is not just an assembly facility, as it is equipped with facilities for component production, welding, painting, and plastic injection. It also has welding robots. The quality of the U.S.-made motorcycles is reputed to be equal to, or better than, the quality of those manufactured in Japan, to the complete satisfaction of our dealers and customers. Through this experience, we are convinced that the automobiles which we are about to start manufacturing in the United States will fully achieve satisfactory quality standards. The workforce at the plant has proven itself to be as diligent and as hard-working as one could expect anywhere in the world, and I, as a member of Honda's management, am totally satisfied with them.

Safety: According to both NHTSA crash data and Insurance Institute statistics on injury and collision claims, U.S.-made cars by and large are far safer than imports, especially than Japanese-made subcompacts.

NHTSA's crash tests of 1981 models found that, among small cars, the imports were on average far more dangerous in terms of predicted head and chest injuries than domestics.

The Insurance Institute for Highway Safety found that all 19 of the models with the best 1978–80 injury claim experience were domestics, while 14 of the 17 models with the worst injury claim record were imports, 13 of them Japanese.

Insurance costs: As a result, insurance premiums are beginning to reflect American cars' higher safety and lower cost of repair following accidents. State Farm has cut rates on 23 larger, domestic cars and levied surcharges against drivers of 23 small, mainly imported cars, including all Japanese subcompacts plus Audi and BMW.

INTERNATIONAL AUTO EARNINGS COMPARISONS: MYTHS AND REALITIES

U.S. auto workers—when they are working—earn a good living; we make no apology for that. But a lot of what we hear about them making $20 an hour or about how the auto crisis would end if autoworkers were paid at Japanese-level wages is nonsense.

First of all, hourly labor costs, expressed in dollars, depend on exchange rates. So even though U.S. autoworkers' real incomes fell in 1981 and Japanese incomes rose, the gap between them widened because each yen bought fewer dollars.

Second, U.S. autoworkers do not earn $20 an hour. Hourly pay before taxes averages about $12 at Ford and GM, and about $9.50 at Chrysler. The rest is the cost of benefits. Most of that comes in two areas which in Japan and most other advanced industrial countries are largely paid for by Government: Health insurance and pensions. Moreover, hourly U.S. costs for these are inflated by the auto slump: Benefits of active, laid off, and retired workers are borne by fewer active workers at the job fewer hours a year.

If the United States had a national health insurance program and a West German-style public pension program, U.S. auto hourly labor costs would fall by as much as $5. If laid-off workers were recalled and all worked full time, they would fall nearly $2 an hour.

In addition, reported Japanese auto labor costs of about $12 an hour—$9 in wages and $3 in benefits—understate the reality, due to how certain company-subsidized benefits; for example, housing, recreational facilities, transportation, are valued.

As a country, Japan is less productive than the United States. People in virtually all walks of life have lower pay in Japan than their counterparts in the United States. Yet, some have argued that, because their products compete with Japanese, American autoworkers should accept Japanese-level wages. Where does that logic end? With the recent devaluation, some Mexican autoworkers receive little more than one-tenth of American auto workers. With modern telecommunications, engineers in Pakistan are designing U.S. bridges. Should American bridge engineers get paid at the Pakistani pay scale?

COSTS OF A FREE TRADE POLICY IN AUTO

U.S. auto communities now have depression-level rates of unemployment. High unemployment will continue, even if sales recover. The companies will be raising productivity to compete. Cars will continue to get smaller to satisfy demands for fuel efficiency. With these inexorable pressures reducing employment, the Nation must carefully weigh the costs of unbridled auto imports.

Every time an additional imported car, truck, engine, or transmission displaces U.S. production, there are costs as well as potential benefits to society. The benefits—price and engineering competition, and consumer choice—are generally recognized. The costs more often remain hidden, never linked explicitly to particular policies. But these costs are huge, and we believe they overwhelm the benefits of unrestricted accesss to the world's largest auto market.

Since 1978, fully 1 million U.S. workers have lost their jobs due to the auto crisis, over 300,000 in the auto companies alone. Meanwhile, the Japanese share of the market has doubled. If nothing is done, half the jobs involved in making the cars and trucks sold here will be lost to the United States—one-quarter already have been.

The Congressional Budget Office estimates that each percentage point of unemployment costs the Federal Treasury $25 billion. Since the million jobs lost to the auto crisis raise the overall unemployment rate by about 1 full point, CBO's figure is a fair measure of the annual Federal revenue cost of the auto slump. Since the content law saves 1 million-plus jobs by 1990, it should be fattening the Treasury by a like amount at that time.

But the Federal budgetary impact is just the start. One must also consider State and local government losses, the loss of dignity and self-esteem of workers unable to find employment, the cost of unused skills, increased crime, alcoholism, illness, family breakup, and premature death.●

● Mr. RATCHFORD. Mr. Chairman, I rise today in support of H.R. 5133, the Fair Practices in Automotive Products Act. This bill is an investment bill—an investment in jobs—an investment in the future vitality of our domestic automobile industry and in the economic future of our Nation. At a time when more than 12 million Americans are without jobs and U.S. auto production is the lowest in 24 years, this bill will go a long way in putting America back to work as well as help utilize a portion of the Nation's idle industrial capacity. Approximately 2.4 million jobs in this country are directly dependent on the auto industry including some 13,000 in my district. The continued survival of jobs in other key industries such as steel, rubber, glass, metal fasteners, aluminum, and robotics, depend heavily on the health and well-being of the domestic auto industry. These primary and secondary auto suppliers account for some $30.2 million worth of business each year in my district supplying Chrysler alone.

This bill is an investment incentive act, which would require that cars sold in the United States contain a gradually increasing percentage of American-made parts depending on the number of cars sold here. This bill is not designed to bar competition from the foreign automakers, rather, it is designed to encourage these firms to build plants where their markets are. Since 1978, the market share of autos sold by the Japanese manufacturers increased from 12.1 percent to some 27 percent. This increase in market share has been a major factor in the layoff of 270,000 workers, some 34 percent of all those employed in the auto industry, in the last 5 years.

Many of my colleagues in this House oppose this bill on the grounds of "free trade." I think this issue at hand it not "free trade" but "fair trade." Some 31 nations have local content requirements. The Japanese maintain onerous tariffs on U.S. goods exported to Japan. These tariffs make U.S. goods overly expensive and restrict the market for U.S. imports in many areas including agriculture, refined copper, airline operations, insurance and financial services, and computer software. We simply cannot allow this deplorable series of unfair trade restrictions to continue at the expense of the American economy and the American worker. This bill will send a necessary message to our trading partners, especially the Japanese, that America demands fair and reciprocal trade.

In closing, I believe that this bill creates an opportunity for manufacturers of all nations to sell and produce cars here in the United States and thereby employing U.S. labor and providing a multiplier effect on production and jobs in services in our economy. This bill precedes from notions of fundamental fairness, conformity with norms of international law, and with much-needed preservation of employment for American workers. I urge its passage.●

Mr. ERLENBORN. Mr. Chairman, the autombile industry is in trouble, and hundreds of thousands of autowokers are idle. I submit, however, that the domestic content bill (H.R. 5133) is not a solution; it will not create jobs or breathe new life in our domestic auto industry. Instead, it will mean higher costs to consumers, add a notch or two to inflation, increase unemployment, and invite trade retaliation. Therefore, I urge my colleagues to vote against this legislation.

"Buy America" is a slogan with a good ring to it. We are proud of our products and they are usually the best available. For 101 reasons, however, they are sometimes also costlier than those made in other countries. Studies show that domestic content legislation will push up the price of a new car by at least $527 and perhaps as much as $3,000.

Other studies show that every $20,000-a-year autoworker who might be reemployed will cost consumers between $60,000 and $100,000; some estimates claim the cost would be even higher. If consumers are willing to pay the price and not hold onto their cars, as they have been doing, perhaps 38,000 jobs will open up in the auto industry with enactment of H.R. 5133. That's what the Congressional Budget Office says.

CBO also says this job gain in the auto industry will be offset by the elimination of some 104,000 jobs in other industries. That translates into a net loss of 66,000 jobs. The American International Automobile Dealers Association predicts H.R. 5133 would close a minimum of 2,000 import dealerships, resulting in unemployment for 80,000 workers.

The League of Women Voters describes this bill as inflationary, restrictive trade legislation that would invite retaliatory trade measures on the part of countries that export to the United States. If that happens, and I am convinced it would, the Department of Commerce states the likely results would be the loss of 25,000 jobs for every $1 billion we lose in exports.

In sum, consumers, workers in the auto industry, and workers in other industries would pay a stiff price for enactment of this legislation to benefit a comparatively small segment of the auto industry. H.R. 5133 should be voted down.

● Mr. DERWINSKI. I intend to vote against passage of H.R. 5133 because of the serious adverse impact it would have on our international trade.

Enactment of this legislation would be a violation of our obligations under the General Agreement on Tariffs and Trade. During the recent GATT ministerial meeting in Geneva, the member nations, including the United States, agreed to try and eliminate future trade restrictions. Furthermore, nations which would be affected by the domestic content bill specifically protested it.

Therefore, if we pass this measure, we can expect retaliation, the impact of which would certainly exceed any potential benefits to our domestic automobile industry.

The voluntary export restraints being observed by the Japanese Government are effectively working, in my judgment, and it would be a mistake to damage this arrangement by passing H.R. 5133.

Free trade is beneficial to American jobs and to the American consumer. Trade restrictions such as the domes-

tic content bill are clearly detrimental to American jobs and American consumers.●

● Mr. ROSTENKOWSKI. Mr. Chairman, I will vote "no" on H.R. 5133, the so-called domestic content bill. There are several reasons for my decision for this vote. First and foremost, H.R. 5133 is deeply flawed legislation. It will not—repeat, will not—put American auto workers back to work. Frankly, there is cause for serious concern that the bill will cost jobs by accelerating foreign trade barriers against U.S. exports.

On the other hand, I am very concerned by the past and more recent actions of our so-called trading partners. Many of my colleagues look at H.R. 5133, which will not be taken up in the Senate, as a message to the Japanese and the European Community. Well, to me "sending a message" means that the message is clear and will be delivered. H.R. 5133 is a garbled message that will not be delivered.

My vote does not limit my flexibility on the trade issue. While I am inclined to favor free and fair trade, I do not see this view shared by many of our trading partners. As a result, I see increasing signs of protectionist sentiment in the House and Senate.

My vote is a strong indication of the high priority that the trade issue will have in the 98th Congress. I hope that more constructive action by our trading partners to open up their markets and increase manufacture of their products in the United States will lessen the protectionist sentiment in the Congress. If not, trade legislation next year will not have the same fate as H.R. 5133.●

● Mr. HEFTEL. Mr. Chairman, this Nation is currently confronted with a frighteningly deep recession which is being exacerbated by our unfavorable trade balance. The failure of the Reagan administration to address this situation has resulted in the emergence of bills, such as the local content bill before us today, calling on us to take some form of action to get America back on track.

Thus, we must now cast a difficult vote on this matter of great significance: the domestic content bill. Let me say from the outset that although I have some reservations and concerns regarding this bill, I will support it as I feel it sends a message to our trading partners, particularly Japan, that efforts must be made to moderate the distinct trade imbalances that exist between our nations.

Most of us would agree that this bill is far from perfect. It would decidedly alter U.S. trade policy, raising the specter of protectionism against open international trade. At the same time, it is not certain that the number of American jobs created by the bill would exceed the number of jobs that would be lost in export-related industries as a result of foreign retaliation. Thus the domestic content bill leaves many questions unanswered.

In light of this, we must not view this bill as a panacea. The deep-rooted problems of our ailing automobile industry and indeed of our entire economy will not be solved by merely insulating ourselves from foreign competition. We must seek long-term answers to the problems of lagging productivity and quality control that plague our industries if we are to produce American cars that will be competitive in the international marketplace.

As imperfect as this bill is, however, it is time that something be done to alleviate the burden that subsidized foreign imports have placed on our economy. We must send a clear message to our trading partners, and especially to Japan, of our intent. They must be told that the United States will not stand by and watch its automobile industry be weakened by subsidized imports while our products are unable to penetrate foreign trade barriers.

The inability of the Reagan administration to negotiate substantial trade concessions with Japan and its unwillingness to address the problems that current trade practices have created for our domestic economy have left the responsibility for action on the shoulders of Congress. We have heard more than enough talk on this issue. It is time now for substantive action. This bill must be our way of telling Japan unequivocally that either they act now to moderate the trade imbalances between us or we will have to take action which they will find much less desirable.●

● Mr. STARK. Mr. Chairman, I am a cosponsor of H.R. 5133.

Japan has required U.S. firms to invest in Japan as a condition for doing business in that country. They have required that patents be turned over to them as a condition of operating in that lucrative market. It is time that some of their abuses of the past be redressed—and that is what this bill does. It requires them to place job-creating parts orders or assembly plants in the United States—just as they have done to countless U.S. firms.

But, Mr. Chairman, I support the amendment by the gentleman from Ohio (Mr. BROWN) on behalf of the Honda Motor Co. As the reports of the United States-Japan Task Force of the Ways and Means Committee have repeatedly made clear, the trade crisis with Japan has been largely an auto trade crisis, and it could have been avoided if Japan had seen the wisdom of placing auto investments in this country. The reports of the task force—named for our colleague from Oklahoma, Mr. Jones—have been warning Japan since 1978 that it must do more to place investment here.

This bill finally puts some teeth into those warnings. But Honda responded to the warnings. They started a motorcycle plant in Ohio, and it was clear from the beginning that that plant would become an auto-producing plant as well.

This bill is a giant stick to force job-producing investment. But it should also be a carrot to reward those who responded early and creatively.

This bill may not be approved by Congress. If it passes the Congress, it may or may not be signed by the President. Thus it is important that we give a signal to the Japanese that we not only expect job-creating investment in this country, but that we will reward those who have shown the courage and wisdom to already make investments. To adopt this amendment will provide a carrot that may prove as helpful as the stick contained in the rest of the bill. It will also set an example for other Japanese industries who should be investing here.●

● Mr. WIRTH. Mr. Chairman, in a world economy that is coming to depend increasingly on international trade, I remain committed to the ideal of free and open global markets. Free trade is without a doubt the best policy, and I have opposed past attempts to erect trade barriers around the United States.

Today, however we are faced with behavior by our trading partners that in no way represents free trade. The governments of Western Europe and Japan have placed severe restrictions on imports. Trade agreements reached through years of negotiation are being violated. The structure of free trade around the world is being threatened by a rising tide of protectionism.

For example, most auto-producing nations other than the United States have established trade restrictions which limit auto imports to a very small share of their domestic auto markets, using both tariff and nontariff barriers. The United States, reflecting its free trade principles, has placed virtually no restriction on foreign car manufacturers' access to the U.S. market. As a result, imported car sales, which represented 15.3 percent of total U.S. car sales in 1970, accounted for 27.3 percent of all cars sold in the United States in 1981. This import share is projected to rise to between 35 and 40 percent by 1990.

Until the early 1970's, Japan imposed a high auto import tariff which facilitated the development of a strong domestic auto industry. While it currently has no auto import tariff, Japan uses a variety of nontariff restrictions to keep its auto market closed to imports. After all required payments for processing, licensing, approval and transportation, a U.S. car that sells for $6,500 here would cost $13,000 in Japan.

With 1 out of 6 jobs in the U.S. economy reliant on international trade, the

protectionist policies of our trading partners would be harmful in the best of times. But with our Nation in the grip of the worst economic slump since the Great Depression, our deteriorating trade position is clearly unacceptable, and requires a response.

Our trade negotiators have not pursued, nor has the administration proposed the necessary reforms to address this problem. The United States can and should be doing more to reduce barriers to U.S. exports, and actively enforce the rights of U.S. firms according to internationally agreed-upon procedures after exhausting all other avenues to remove discrimination. In addition, the United States must aggressively negotiate to achieve an agreement to drastically reduce the export subsidy programs of other countries.

As a result of our inattention to trade reforms, the sectors of our economy most sensitive to trade, like the automobile industry, are on the brink of collapse. Employment in the U.S. auto industry has dropped nearly 28 percent since 1978, for a total loss of nearly 1 million jobs. The United States has a $16 billion trade deficit with Japan—$13 billion of which is attributable to imports of Japanese cars.

H.R. 5133, which would require that automobiles sold in the United States contain a certain percentage of domestic parts and labor, is an important signal to our trade negotiators and the administration. It is a signal that the Congress demands that our trading partners adhere to the spirit as well as the letter of our trade agreements, because we will not allow industries to suffer further from foreign protectionism masquerading as free trade.

The recently concluded General Agreement on Tariffs and Trade (GATT) ministerial conference in Geneva came to no resolution of the problems that threaten our international economy. The passage of this bill at this time is a message that we must recognize the seriousness of these problems, and the disastrous effect they are having on American industries and workers.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of H.R. 5133, the Fair Practices in Automotive Products Act, also known as the local content bill. H.R. 5133 is the most important piece of economic legislation this Congress has considered or will consider. Without passage of this bill, there will be no help for America's greatest industry and the millions of men and women who work in it, because no one in our Government has offered a constructive alternative.

Why should we pass this legislation? There are many reasons:

First, the U.S. auto industry is plunged in a depression that has already lasted 4 years, cost 1 million jobs, destroyed the economy of scores of communities and cost the U.S. Government hundreds of billions of dollars. Sales are at their lowest levels since 1961.

Second, at the same time U.S. sales and production have dropped, Japanese imports have skyrocketed. Between 1978 and 1981, Japanese car imports rose 37 percent. Japan's share of our auto market is now 23 percent, and total imports are over 30 percent.

Third, economists predict that the import share will climb as high as 35.8 percent to 65 percent of the U.S. market by 1990. (Chase Econometrics predicts 35.8 percent, Merrill Lynch predicts 40 percent, the National Academy of Engineering says 65 percent is possible.)

Fourth, even U.S. companies are beginning to import vehicles and parts. Without H.R. 5133, the imported content of domestically produced cars could be 30 percent by 1985 and 39 percent by 1990. GM has built 10 plants in Mexico on the U.S. border since 1979. AMC, Ford, and Chrysler all operate cheap labor border factories in Mexico.

Fifth, auto imports cost U.S. taxpayers billions of dollars. The combination of lost taxes—which would otherwise be paid by U.S. manufacturers and workers—and the various costs of unemployment insurance, welfare and food stamps for unemployed U.S. workers add up to $2,500 for each import, $6 billion a year.

Sixth, the content bill would create or preserve more than 700,000 jobs in the auto and related industries. The total, economywide impact would be more than 1 million jobs.

Many people, including the editorial writers for the major papers in my part of Michigan, are worried that H.R. 5133 will set off a trade war and cost Americans more jobs than it creates. The Japanese have not threatened retaliation; this worry has been given validity by the Reagan administration, which opposes local content laws without offering any alternative. In addition, the Congressional Budget Office has predicted massive retaliation against U.S. exports by Europe and Japan, even though no European auto manufacturer will be adversely affected by the content requirements in H.R. 5133.

What is the truth? For the following reasons, I believe the notion of Japanese retaliation is a red herring:

First, Japan has never filed a complaint under the General Agreement on Tariffs and Trade, even though every other nation severely restricts Japanese auto imports.

France has frozen Japan's share of its market at 2½ percent. (Japan's share of the U.S. market is 23 percent.)

Germany has frozen Japan's share of its market at 10 percent.

Italy permits only 2,200 Japanese imports a year.

Britain banned Japanese auto imports for 5 months and forced Honda to assemble cars in Britain.

Second. Japan buys from the United States only what it cannot produce itself. To retaliate, Japan must turn elsewhere for the lumber, minerals, grain and other agricultural products they import from us. But where would they turn?

Alternative grain and mineral exporters—Australia, Argentina, Brazil, and Indonesia—all have content laws.

Alternative manufacturers of computers and high-tech goods—France, Britain and other Western European countries—all have tough import restrictions.

Third. The Japanese do not have clean hands. Japan requires local production of aircraft it buys from Lockheed and McDonnell Douglas and is forcing Boeing to source production of its 767 in Japan.

Fourth. Rather than retaliate, Japan will respond. Two Japanese auto companies (Nissan and Honda) have already built manufacturing plants in the United States. When the United Kingdom banned auto imports from Japan, Honda responded by locating its assembly operation in England. Japan will not give up the biggest, most lucrative auto market in the world.

H.R. 5133 will lead to productive investment in the United States. Construction workers, transportation workers, the steel, glass, rubber, textile, basic metals, and electrical industries—all will benefit from this legislation when the Japanese auto companies shift their capital investment to the United States. The positive jobs impact of this legislation will be enormous. If even half as many jobs are created by H.R. 5133 as the UAW predicts, it would be the greatest economic achievement of the Federal Government in the last 5 years.

It is true that the Congressional Budget Office disputes the UAW's estimates. But examine the flaws in CBO's analysis. CBO's conclusions are based on five totally unrealistic assumptions.

First. The import share of the market will fall from where it stands today even if the bill is not passed.

CBO based its projections on a comparison of the U.S. economy in 1990 with a content law and without. CBO assumed that without a content law, the import share of our market would be 25 percent, a figure lower than their current share. By contrast, Merrill Lynch Economics predicts a 40-percent import share in 1990 without a content law.

This assumption falsely cuts the bill's job saving potential in half.

Second. U.S. companies' foreign sourcing would not be affected by H.R. 5133.

CBO ignores all jobs saved by preventing U.S. producers from outsourcing parts production and from importing Japanese vehicles in joint ventures. Each of the Big Three currently has plans which would bring their content below 90 percent by 1990, at the cost of thousands of U.S. jobs.

Third. Japanese companies will not increase their investment in the United States.

CBO assumes that Toyota and Datsun would give up their current market share—576,491 and 464,805 units, respectively—and fall below the 100,000 unit threshold.

This does not square with the experience of other foreign manufacturers—Honda, VW, and Renault—who have made substantial investments in U.S. facilities.

The Japanese companies have dealer networks, huge marketing investments, and years of experience in the United States. They will not walk away from the world's largest, most profitable auto market.

Jobs will be created in construction, manufacturing, assembly, in the parts and supplier industries, in transportation, and so forth. These will more than make up for jobs lost by importers and dockworkers.

Fourth. The United States will suffer massive, worldwide retaliation.

CBO assumes that European contries and Japan will refuse our agricultural and industrial exports, at the cost of 104,000 jobs. As I explained earlier, this is nothing but raw, unsupportable speculation. When CBO alternately assumed no retaliation, it concluded that the effects of the bill would be positive.

Fifth. CBO predicts H.R. 5133 would raise car prices by 6 percent.

Because they predict the Japanese will abandon the United States, reducing competition and removing one-half million cars from the market, CBO believes prices would be inflated artificially.

In fact, there will be plenty of competition, and prices will not rise artificially. Recent experience is instructive. Since Japanese imports were capped "voluntarily" early in 1981, prices have increased at a rate less than one-half the inflation rate: 3 versus 6 percent.

Mr. Chairman, I believe that CBO's analysis of this legislation rivals their bright predictions of the success of Mr. Reagan's so-called economic recovery program early last year as the worst job of economic forecasting ever performed by a Federal agency. If CBO had been right, we would not need legislation like H.R. 5133 today.

In closing, I would like to remind my colleagues that, although H.R. 5133 will affect the major Japanese auto companies most directly, its restrictions apply equally to the major U.S. auto producers. H.R. 5133 is not a bill to protect badly managed multinational corporations. It is a bill to protect American workers at a time of depression-level unemployment, to protect communities all around the country from disastrous plant closings, and to protect a dangerously shrinking American industrial base. As the attached story from the New York Times vividly industrial base. As the attached story from the New York Times vividly demonstrates, the threat to American jobs does not come solely from Japan. It comes from multinational investment decisions which ignore human and social costs in search of cheap wages. H.R. 5133 will put this Congress on record, clearly and forcefully, as putting people first.

I urge you to support H.R. 5133.

The story follows:

[From the New York Times, July 25, 1982]

U.S. AUTO MAKERS USING MORE MEXICO PLANTS

(By Iver Peterson)

NOGALES, MEXICO, July 18.—Detroit's automobile companies, like other American manufacturers, are setting up an increasing number of plants in border towns like this one where American-made materials are assembled into finished products by inexpensive Mexican labor.

The goods assembled in these plants, which the Mexicans call maquilas, are then brought back to the United States under special low tariff rates.

As the United States recession has deepened and some 10 million Americans, including a quarter million auto workers, have lost their jobs, the number of employees in the maquilas grew to 128,000 by June 1981 from 91,000 in 1979, a 40 percent increase. The number of plants, meanwhile, grew from 459 to 604, according to the Commerce Department's latest figures.

Calculators, clothing, suitcases, sunglasses and a host of other items requiring hand assembly flow from the plants back into the United States, with automotive components and subassemblies a growing part of the total.

General Motors opened its first border plant in Ciudad Juárez in 1979, and began hiring for its 10th one, there and elsewhere, a few weeks ago. It now employs about 5,300 Mexican workers. They assemble wiring harnesses, motor magnets, turn signal stalks and numerous other auto components.

Ford, making interior trim, employs 180 at its plant in Ciudad Juárez. Chrysler, assembling wire harnesses, also has an 800-employee operation there.

And American Motors, through its subsidiary, Coleman Products Inc., joined Caterpillar Tractor, Samsonite luggage and Foster Grant sunglasses, among others, here in Nogales last March when it hired its first crew of young Mexican workers to cut and wrap wiring harnesses.

American labor unions have attacked these operations as "runaway plants" that are no less exporters of United States jobs than the foreign imports that American corporations have appealed to Washington to curtail.

"There was no great need for them to cut the corner on the dollar as long as times were good," said Rex Hardesty, the AFL-CIO's Washington spokesman. "But they make a grab for the coolie wages as soon as things get tight and it becomes cost-effective for them to do so."

But the corporations contributing to the boom in maquilas, an untranslatable term whose root is Spanish for "machine," argue that American labor costs are out of line with world competition, that many Americans will not perform the tedious, unskilled handwork to which the maquilas are limited by law, and that the Mexican plants provide an outlet for American materials while aiding Mexico's economy.

"We have observed over the past five years that the cost of our products were becoming less competitive in the world market," said James Tolley, a spokesman for American Motors, expressing a view similar to that of other auto makers. "We therefore established a strategy to continue to operate U.S. plants, but to expand in Mexico to average our cost downward."

REFUSAL TO DISCLOSE WAGES

American Motors refused to disclose the wage rates at its plant here, terming the information a "proprietary" secret. But employees of Coleman Products de Mexico, interviewed on their lunch break at the Parque Industrial a few miles south of here, said they received 2,400 Mexican pesos, about $50, for a 48-hour week, which works out to slightly more than $1.04 an hour.

American Motors also refused to disclose pay levels at its two Coleman Products plants in the United States, in Coleman, Wis., and Iron River, Mich. Both plants, in small, rural towns, have twice rejected affiliation the United Automobile Workers, whose members in manufacturing jobs earn upward of $12 an hour and whose benefits push the total hourly labor to add another $8 an hour to that.

Company officials insisted that the Mexican plant did not take United States jobs because its two plants there were operating at capacity.

The maquilas operate under strict regulations on both sides of the border. The Mexican Government allows the United States company to import, tax-free, the machinery and raw material needed to perform the work provided that the finished product and everything else, including the machinery and even packing crates, is eventually reexported to the United States.

United States tariff regulations, meanwhile, exempt these imported products from all duties except for the value of the Mexican labor added to it. In 1978, the last year for which the Commerce Department has assembled the figures, this amounted to $12.7 billion.

Mexico is the main location for such operations by United States companies, but the system also operates extensively elsewhere, including the Caribbean, where American-woven and cut fabrics are sewn into clothes.

The legislative principles behind the duty exemptions for all but the value of labor added outside the country date from the 18th century in United States tariff law. They hold that materials whose production has already been taxed at its origins in the United States should not be subject to new levies upon being brought back after assembly or finishing abroad.

Mexico encourages the plants because they reduce this country's enormous pool of surplus labor at minimal but decent wages by local standards.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes, pursuant to House Resolution 622, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROYHILL. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROYHILL moves to recommit the bill, H.R. 5133, to the Committee on Energy and Commerce and the Committee on Ways and Means.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 215, nays 188, not voting 30, as follows:

[Roll No. 460]

YEAS—215

Addabbo	Guarini	Oberstar
Akaka	Hall (IN)	Obey
Albosta	Hall (OH)	Ottinger
Annunzio	Hall, Ralph	Patterson
Applegate	Hall, Sam	Pease
Aspin	Hamilton	Pepper
Bailey (PA)	Harkin	Perkins
Barnes	Hatcher	Peyser
Bevill	Hawkins	Price
Biaggi	Heftel	Rahall
Boggs	Hertel	Railsback
Boland	Hillis	Rangel
Boner	Hollenbeck	Ratchford
Bonior	Hopkins	Regula
Brodhead	Horton	Rinaldo
Brooks	Howard	Ritter
Broomfield	Hoyer	Rodino
Burton, Phillip	Hubbard	Roe
Chisholm	Hughes	Roemer
Clay	Hunter	Rogers
Coelho	Jacobs	Rose
Coleman	Jenkins	Rosenthal
Collins (IL)	Jones (NC)	Roth
Conte	Jones (TN)	Roybal
Conyers	Kastenmeier	Russo
Coughlin	Kennelly	Sabo
Coyne, William	Kildee	Savage
Crockett	Kindness	Scheuer
Davis	Kogovsek	Schneider
Dellums	LaFalce	Schumer
Dicks	Lantos	Seiberling
Dingell	Latta	Shamansky
Dixon	Leach	Shannon
Dorgan	Lee	Sharp
Dougherty	Leland	Shelby
Dowdy	Levitas	Siljander
Downey	Long (LA)	Simon
Dunn	Long (MD)	Skelton
Dwyer	Luken	Smith (AL)
Dymally	Lundine	Smith (NJ)
Dyson	Madigan	Smith (PA)
Early	Markey	Snyder
Eckart	Marks	Solarz
Edgar	Martin (IL)	Solomon
Edwards (CA)	Martinez	St Germain
English	Matsui	Stark
Ertel	Mattox	Stratton
Evans (IN)	Mavroules	Studds
Fary	Mazzoli	Swift
Fascell	McCurdy	Tauzin
Fazio	McDade	Traxler
Ferraro	McEwen	Udall
Fish	McKinney	Vento
Fithian	Mica	Volkmer
Flippo	Mikulski	Walgren
Florio	Miller (CA)	Washington
Foglietta	Miller (OH)	Watkins
Ford (MI)	Mineta	Weaver
Ford (TN)	Minish	Weiss
Fowler	Mitchell (MD)	Whitten
Frank	Moakley	Williams (MT)
Frost	Moffett	Williams (OH)
Garcia	Mollohan	Wilson
Gaydos	Mottl	Wirth
Gejdenson	Murphy	Wolpe
Gephardt	Murtha	Wortley
Gilman	Natcher	Wright
Gingrich	Neiligan	Wylie
Ginn	Nichols	Yatron
Gonzalez	Nowak	Young (MO)
Goodling	O'Brien	Zablocki
Gray	Oakar	

NAYS—188

Anderson	Bonker	Collins (TX)
Andrews	Bouquard	Conable
Anthony	Bowen	Corcoran
Archer	Breaux	Courter
Ashbrook	Brinkley	Craig
Atkinson	Brown (CO)	Crane, Daniel
AuCoin	Broyhill	Crane, Philip
Bafalis	Burgener	Daniel, Dan
Bailey (MO)	Butler	Daniel, R. W.
Barnard	Byron	Dannemeyer
Bedell	Campbell	Daub
Beilenson	Carman	de la Garza
Benedict	Carney	Deckard
Bennett	Chappell	DeNardis
Bereuter	Chappie	Derrick
Bethune	Cheney	Derwinski
Bingham	Clinger	Dickinson
Billey	Coats	Donnelly
Dornan	Jones (OK)	Pritchard
Dreier	Kazen	Quillen
Duncan	Kemp	Reuss
Edwards (AL)	Kramer	Roberts (KS)
Edwards (OK)	Lagomarsino	Roberts (SD)
Emerson	Leath	Robinson
Erdahl	Lent	Rostenkowski
Erlenborn	Lewis	Roukema
Evans (DE)	Livingston	Rousselot
Evans (GA)	Loeffler	Rudd
Evans (IA)	Lott	Santini
Fenwick	Lowery (CA)	Sawyer
Fiedler	Lowry (WA)	Sensenbrenner
Fields	Lujan	Shaw
Foley	Lungren	Shumway
Fountain	Marlenee	Skeen
Frenzel	Marriott	Smith (IA)
Fuqua	Martin (NC)	Smith (NE)
Gibbons	Martin (NY)	Smith (OR)
Glickman	McClory	Snowe
Gore	McCloskey	Spence
Gradison	McCollum	Stangeland
Gramm	McDonald	Stanton
Green	McGrath	Staton
Gregg	McHugh	Stenholm
Grisham	Michel	Stump
Gunderson	Mitchell (NY)	Synar
Hammerschmidt	Molinari	Taylor
Hance	Montgomery	Thomas
Hansen (ID)	Moore	Trible
Hansen (UT)	Moorhead	Vander Jagt
Hartnett	Morrison	Walker
Hefner	Myers	Wampler
Hendon	Napier	Waxman
Hightower	Neal	Weber (MN)
Hiler	Nelson	Weber (OH)
Holland	Oxley	White
Holt	Panetta	Whitehurst
Huckaby	Parris	Whitley
Hutto	Pashayan	Whittaker
Hyde	Patman	Winn
Ireland	Paul	Wolf
Jeffords	Petri	Wyden
Jeffries	Pickle	Young (FL)
Johnston	Porter	

NOT VOTING—30

Alexander	D'Amours	Pursell
Badham	Daschle	Rhodes
Beard	Emery	Schroeder
Blanchard	Findley	Schulze
Bolling	Forsythe	Shuster
Brown (CA)	Goldwater	Stokes
Brown (OH)	Hagedorn	Tauke
Burton, John	Heckler	Yates
Clausen	LeBoutillier	Young (AK)
Coyne, James	Lehman	Zeferetti

□ 1920

The Clerk announced the following pairs:

On this vote:

Mr. Blanchard for, with Mr. Tauke against.

Mr. Alexander for, with Mr. Badham against.

Mr. Stokes for, with Mr. Clausen against.

Mr. John L. Burton for, with Mr. Beard against.

Mr. SCHEUER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER pro tempore. (Mr. BREAUX). Is there objection to the re-

quest of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks and include extraneous materials at the point where their remarks appear in the debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON REPORT OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted a privileged report (Rept. No. 97-968) on the Report of the Committee on Public Works and Transportation, together with additional views, minority views, and additional minority views, on the congressional proceedings against Anne M. Gorsuch, Administrator, U.S. Environmental Protection Agency, for withholding subpenaed documents relating to theComprehensive Environmental Response, Compensation, and Liability Act of 1980, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7397, CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-969) on the resolution (H. Res. 629) providing for the consideration of the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region, which was referred to the House Calendar and ordered to be reprinted.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 3191, MODIFICATION OF NORTH AMERICAN CONVENTION TAXES AND TAX RULES

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-970) on the resolution (H. Res. 630) providing for the consideration of the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1965, DESIGNATING CERTAIN AREAS IN MISSOURI AS COMPONENTS OF NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-971) on the resolution (H. Res. 631) providing for the consideration of the Senate bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I ask for this 1 minute for the purpose of receiving the legislative schedule for tomorrow and hopefully as much of the balance of the week as possible.

Mr. WRIGHT. Mr. Speaker, will the gentleman from Mississippi (Mr. LOTT), the acting minority leader, yield?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

We plan to come in at 10 o'clock tomorrow, our legislative business for today having been finished.

We have four conference committee reports. The District of Columbia Appropriations; the Transportation Appropriations, the Futures Trading Act of 1982; and the Maritime Authorizations.

In addition to that, there is a modified 1 hour rule on the Mark Twain National Forest in Missouri, otherwise known as the Irish Wilderness bill.

A modified rule 1 hour of debate on Paddy Creek Wilderness in Missouri.

And a modified rule with 1 hour of debate on Modifications of North American Convention Tax Rules.

Then we hope to take up the Immigration Reform Act, H.R. 7357. As the gentleman knows, that is a modified rule allowing 5 hours of general debate. We would expect to do the rule and general debate only tomorrow. Members need to be aware that the EPA Contempt of Congress question can be considered at any time. That is a highly privileged matter. I am informed that the gentleman from New Jersey, the chairman of the Public Works Committee, may expect to seek recognition for the purposes of bringing that up early tomorrow. So that is at the discretion of the gentleman from New Jersey, the chairman of the Committee on Public Works and Transportation, and the chair who would recognize him for that priviledged motion.

Conference reports of course may be brought up at any time. While we do not have any reason to expect the conference report necessarily tomorrow on the continuing appropriation, hope springs eternal, and we may continue to hope if it does not come tomorrow, then perhaps the following day, and if not then perhaps the following day. But eventually we will get to that.

Mr. LOTT. If I could get clarification. Did I understand the distinguished majority leader properly when he said we would have the rule and debate and votes on the Paddy Creek, the Irish Wilderness, and the Love Boat bill?

Mr. WRIGHT. I think the answer to the gentleman's question is yes, though I am looking for the Love Boat bill.

Mr. LOTT. That was No. 7. That is the tax deduction feature.

Mr. WRIGHT. I am sorry, I cannot find it. If the gentleman desires to refer to one of these bills by that terminology, I shall not quarrel with him.

Mr. LOTT But the gentleman does expect to take up those three to completion, one way or the other.

Mr. WRIGHT. Yes; we hope to do that.

We do not expect to complete the Immigration tomorrow.

Mr. LOTT. Just the rule and general debate.

Mr. WRIGHT. That is correct. Any further program to be announced later. The Caribbean Basin Initiative bill has been granted a rule by the Rules Committee, and that will come to us probably on Friday, but we will have to see.

Mr. LOTT. I thank the gentleman.

□ 1930

FORTY YEARS AGAINST THE TIDE

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, on the evening of November 17, 1982, the Honorable Carl T. Curtis received the 20th Annual Distinguished Nebraskan Award bestowed by the Nebraska Society of Washington, D.C. To most Nebraskans, Senator Curtis' award was long overdue.

Carl T. Curtis served in the Congress from January 3, 1939, to January 3, 1979, which is longer than any other Nebraskan has ever served in the Congress or in any statewide elected office.

Over a period of 30 years, Senator Curtis introduced an amendment to

the Constitution to compel a balanced Federal budget and provide a pay-as-you-go basis.

In 1956, the Senator brought about the appointment of a commission on industrial uses of agricultural surpluses. This gave the first important emphasis to gasohol. He authored the law which exempts motor fuel containing 10 percent or more of alcohol from the Federal gasoline tax.

Senator Curtis introduced the resolution for a survey of the Missouri River. This led to the authorization of the Army Engineers-Bureau of Reclamation plan of 1944 for the Missouri River and its tributaries—also known as the Pick-Sloan Plan. Under this plan 20 dams and 8 irrigation districts have been built in Nebraska, plus bank improvements and local protective works for which Senator Curtis was the chief sponsor or a cosponsor. This development has added greatly to Nebraska's recreation and fishing opportunities.

The Senator is the author of the Individual Retirement Act. In 1974 Congress passed and President Richard M. Nixon signed the act which contained the Curtis Individual Retirement Act, which has become known as IRA.

The investigation and the report of the Curtis Subcommittee on Social Security in 1953 and 1954 was the first alert of the impending financial problems of the system. He became a leading authority on social security. His was a battle to make social security financially sound and responsible.

Numerous provisions of our tax law bear his imprint, such as making soil conservation expenses tax deductible, capital gains treatment for livestock, benefits for education and charity, the meat import law, industrial development bonds, gasohol, IRA, and the 1976 Federal estate tax reduction—the first in four decades.

A researcher of the Curtis files estimated that this office handled more than 17,000 individual cases for Nebraskans who had problems in Washington.

Senator Curtis is the author of "To Remind," a daily devotional book currently being published. He is now writing a book entitled, "40 Years Against the Tide," which is the history of the development of the welfare state from the viewpoint of one who opposed it.

As a Member of Congress from the State of Nebraska, I am proud to know Senator Curtis as both a mentor and a friend. His distinguished service to Nebraska and to America has been an inspiration to all of us who aspire to elected political office.

Today, I want to pay tribute to Senator Curtis and to his lovely wife, Mildred, as they plan to return to their native State for retirement.

FORTY YEARS AGAINST THE TIDE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Nebraska on the Honorable Carl T. Curtis.

GORSUCH CONTEMPT CITATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, on Friday, December 10, 1982, the Committee on Public Works and Transportation approved a resolution recommending that the Administrator of the Environmental Protection Agency be found in contempt of Congress for failure to produce documents subpenaed on November 22, 1982, by the committee's Subcommittee on Investigations and Oversight. The November 22 subpena was issued in connection with the subcommittee's investigation into the contamination of the Nation's water resources by hazardous chemical wastes.

A number of members of the committee, including myself, were not able to support the committee's recommendation because it was not the product of careful, independent congressional deliberation.

It is my understanding that the committee will file its report today and that this matter could come up on the House floor shortly. Therefore, in order that Members be as informed as possible under the circumstances, I am inserting in the RECORD a copy of the minority views which accompanied the committee report, as well as a copy of attachment A, Legal Opinion of the Attorney General; and attachment B, DOJ Memorandum Responding to the Legal Memorandum of the General Counsel of the Clerk of the House.

MINORITY VIEWS OF REPRESENTATIVES CLAUSEN, SNYDER, HAMMERSCHMIDT, GOLDWATER, HAGEDORN, STANGELAND, CLINGER, GINGRICH, SOLOMON, HOLLENBECK, DECKARD, GRISHAM, JEFFRIES, FIELDS, SHAW, MCEWEN, WOLF AND ATKINSON

The undersigned Members of the Committee on Public Works and Transportation are unable to support the recommendation contained in the foregoing Report that the Administrator of the Environmental Protection Agency, Anne M. Gorsuch, be cited for contempt of Congress for failure to produce documents subpoenaed on November 22, 1982, by the Committee's Subcommittee on Investigations and Oversight in connection with its investigation into the contamination of the Nation's water resources by hazardous chemical wastes.

At the outset, we want to emphasize our strong support for the Subcommittee's efforts to review and study the effectiveness of the Superfund law and the manner in which it is being implemented by the Environmental Protection Agency. The Subcommittee's inquiry, in our view, is extremely important and most appropriate to assure that the Superfund law is working and being administered to the fullest intent of the Congress.

We also support, as a general matter, the efforts of the Subcommittee to gain access to EPA's enforcement related files. Congress cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change. For this reason, Congress has the power to compel the production of information needed for the efficient exercise of the legislative function.

While we support the concept of requiring EPA to produce documents necessary for the Subcommittee's investigation, we cannot support the Committee's hasty and ill-conceived action in recommending that Administrator Gorsuch be found in contempt of Congress for failing to produce all of the documents subpoenaed by the Subcommittee on November 22, 1982.

Our principal reason for not supporting the Committee's recommendation is that it is not the product of careful, independent Congressional deliberation. Instead, the resolution was called up with only two days notice to the Full Committee. This procedure did not give Members a chance to adequately study the issues or to fully explore options for resolving the dispute.

We believe that this unfortunate confrontation was unnecessary and could have been avoided. We had presumed all along that the Committee was interested in obtaining the documents in question, rather than to find Administrator Gorsuch in contempt of Congress.

In determining the wisdom and propriety of citing the EPA Administrator for contempt, we believe that a number of factors should be considered.

1. *The power of Congress to find someone in contempt is an extraordinary power, and should not be used without clear reason to do so.*

It is important to understand the full effect of citing the EPA Administrator for contempt. If the House cites Ms. Gorsuch for contempt, the appropriate U.S. attorney is required by statute (2 U.S.C. 194) to bring the matter before the grand jury for its action. Ultimately, Ms. Gorsuch could be subject to a criminal fine of not less than $100 nor more than $1000 and imprisonment for not less than one month nor more than 12 months.

This is an extremely serious matter, and one which should have received careful consideration. Yet the Full Committee was given only two days notice of the meeting. This simply was not sufficient time for the Members of the Full Committee who are not on the Investigations and Oversight Subcommittee to review the facts of this case, or to research the extremely complex issues and precedents involved.

Furthermore, the Full Committee meeting itself was brief, and efforts to offer alternatives or to discuss the implications of the proposed actions were given short shrift. In fact, the Ranking Minority Member of the Committee was not even allowed to finish his opening statement. In addition, a motion to postpone the final vote until Wednesday, December 15th, so that members could have time to study the issues, was rejected solely along party lines.

2. *The Committee's action fails to recognize that EPA has agreed to turn over to the Subcommittee a substantial amount of information.* Administrator Gorsuch agreed to

provide approximately three-quarters of a million pages of enforcement file documents for the Investigations and Oversight Subcommittee, relative to 160 hazardous waste sites, including all technical and factual data and much confidential material. Neither she nor any other official of the Administration has contested the Subcommittee's authority to request and receive information relative to its oversight and investigatory tasks.

3. *The Committee's action fails to recognize that the President directed Ms. Gorsuch to withhold the documents.* With respect to the documents at issue, the Administrator has been specifically directed, by order of the President of the United States, dated November 30, 1982, that "sensitive documents found in open law enforcement files should not be made available to Congress" on the grounds that "dissemination of such documents outside the Executive Branch would impair . . . [the President's] solemn responsibility to enforce the law."

The President's decision and order to the Administrator of the Environmental Protection Agency was based upon the legal opinion of the highest ranking legal officer of the United States Government, an opinion and order which the Administrator has no standing to reject.

4. *The Committee did not exhaust all means of resolving the dispute before resorting to the contempt citation.* We are convinced that this dispute could have been avoided if the Committee had not rushed into the contempt proceeding but instead had taken the time to consider all alternative ways to resolve the problem. This can be best illustrated by a few examples.

First, prior to the Full Committee meeting, White House officials asked to meet with the Full Committee Chairman and Ranking Minority Member. The meeting was not held.

Second, White House officials offered to show the Chairman and Ranking Minority Member a sampling of the withheld documents so that they could better understand the Administration's position on this matter. This overture was rejected.

Third, a compromise proposal was offered which would have given the U.S. District court in the District of Columbia the jurisdiction to determine the validity of the Subcommittee's subpoena. White House officials indicated that the Administration would not only support this legislation but would work in the House and Senate to enact it during the lame duck session. This proposal was rejected.

And fourth, the Administration, in responding to a compromise proposal made by the Subcommittee Chairman, offered a counter proposal in a leter dated December 9, 1982. No formal response was made to the Administration's proposal prior to the Full Committee meeting to cite Ms. Gorsuch for contempt.

5. *The legal issues involved in this matter are extremely complex and should have been analyzed more carefully.* Members of the Committee did not have sufficient time, in our view, to review the competing arguments and to form an independent judgment on the merits of the issue.

Stated simply, the Subcommittee Chairman seems to be of the view that the Subcommittee has a right to all of EPA's records and that staff should be given complete access to EPA's files, including the right to copy any documents it wants. It is alleged that the Legal Memorandum dated December 8, 1982 from the General Counsel to the Clerk supports this position. A copy of this memorandum is included in the Majority Report.

The Administration, on the other hand, disputes that Congress has an automatic right to each and every document in EPA's files. The Attorney General of the United States has taken the position that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees except in extraodinary circumstances.

(A copy of the Attorney General's opinion is attached (Attachment A). Also attached is a copy of a DOJ legal memorandum responding to the Legal Memorandum of the General Counsel to the Clerk of the House (Attachment B) and a DOJ memorandum outlining the history of Presidential invocations of executive privilege vis-a-vis Congress (Attachment C)).

The cases construing executive privilege are very limited and no controlling judicial precedent exists governing attempts by a committee of Congress to obtain materials from the Executive Branch. That is, the Supreme Court has yet to be called upon to resolve the question of the respective rights of the Executive and Legislative Branches in regard to a claim of privilege as a defense to compulsory legislative process for documents residing within the Executive Branch.

In our view, these conflicting legal opinions should have been more carefully analyzed before the Committee proceeded to cite an executive Branch official for contempt.

6. *The Committee's action fails to adequately consider EPA's contention that ongoing enforcement cases might be jeopardized.* While we are in agreement that the Congress has a legitimate right to information which it needs to carry out its oversight and investigative responsibilities, we are concerned over EPA's allegation that disclosure of certain files might jeopardize ongoing enforcement actions. The issue is certain documents in open law enforcement files. They are at the stage where EPA and/or the Justice Department are developing cases for prosecution, or are actually in the enforcement process by U.S. attorneys. What the Committee is saying—by going forward with the contempt resolution—is that these documents, despite their sensitive nature and despite the fact that criminal prosecutions could be jeopardized, must be made available to the staff of this Committee, the Members of this Committee and—by the Rules of the House—to all House Members. We are not sure that we are prepared to go this far at this time. The issue is far more complex than it seems on the surface, and we have not had sufficient time nor information to form a judgment. We do believe that the Committee should have availed itself of the Administration's offer to look at some of the documents so that we could better evaluate EPA's claim with respect to these documents.

7. *The Committee's action fails to recognize certain potential problems with respect to enforcement of the subpoena issued on November 22, 1982.* If the House cites Ms. Gorsuch for contempt, the matter will be turned over to the U.S. attorney for criminal prosecution. It is, therefore, relevant to consider potential problems that might come up with respect to the subpoena.

First, the subpoena is extremely broad, and this could become an important factor in a criminal prosecution for failure to comply. The subpoena requests that virtually all documents created since December 11, 1980, petaining to 160 hazardous waste sites be turned over to the Subcommittee. EPA has estimated that would require the location, segregation, duplication and shipping of more than 787,000 pages of documents.

Second, EPA has stated that the subpoena is technically defective. Since the Agency has so far only issued an interim priority list, *not* Under Section 105(8) (B), the subpoena does not apply to any documents in the possession or custody of EPA. No sites have been listed under section 105(8) (B).

Third, we are concerned the Committee has not yet reviewed the material which Ms. Gorsuch was prepared to turn over to the Subcommittee. According to EPA, she withheld only a small fraction of the total documents demanded by the Subcommittee; moreover, no factual or technicial materials are being withheld from Congress—only enforcement strategy such as analyses of strengths and weaknesses of the Government's case. It seems to us that the Committee's case would be much stronger if we reviewed the materials which EPA did provide us before we conclude that there is a compelling need for us to have access to the remaining documents.

In conclusion, we have serious reservations about the wisdom and propriety of the Committee's recommendation to cite the Administrator of the Environmental Protection Agency, Anne M. Gorsuch, for contempt of Congress. We are, therefore, unable to support the Committee's recommendation at this time.

Our principal reason for not supporting the contempt citation is that we feel that this matter was rushed through the Committee without adequate time to study the complex legal and factual issues involved. Stated simply, a number of us feel that we do not have sufficient information to make a reasoned decision.

We also believe that this confrontation was unnecessary and could have been avoided had more time been taken at the Full Committee to evaluate various alternatives and options.

And finally, we note that this approach, that is, bringing criminal charges against Ms. Gorsuch, will not necessarily result in the documents being made available to the Committee. We believe that the Committee's focus should have been to obtain the documents in question, rather than concentrating on citing Administrator Gorsuch in contempt of Congress.

[Attachment A]

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 30, 1982.

Hon. ELLIOTT H. LEVITAS,
Chairman, Subcommittee on Investigations and Oversight, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have had occasion to reiterate, in the attached letter to Chairman Dingell of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, the historic position of the Executive Branch that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees except in extraordinary circumstances. I am aware that your Subcommittee has issued to Administrator Gorsuch of the Environmental Protection Agency ("EPA") a subpoena apparently seeking copies of some 787,000 documents found in open law en-

forcement files related to approximately 160 hazardous waste sites located throughout the United States. At least 23 and probably more documents covered in your Subcommittee's subpoena are of that class covered by my letter to Chairman Dingell, since they reflect prosecutorial strategy and other internal deliberations regarding prosecution of the particular cases involved.

Because the principles articulated in the attached letter to Chairman Dingell are fully applicable to some of the documents arguably within the scope of your Subcommittee's subpoena, I believe it appropriate to provide you with a copy of that letter at this time. Because neither I nor my staff have previously communicated directly with you on this particular matter, I would also like to express my hope that, after you have had the benefit of my views on this issue, set in their historical perspective, you will no longer seek to compel production of this class of documents from the Administrator. Should you wish to discuss this matter further prior to the Subcommittee's scheduled December 2 hearing, I would ask that you contact Assistant Attorney General McConnell of my Office of Legislative Affairs at your convenience.

I would also add that I am confident that the legislative needs of your Subcommittee can be met without the production by the Administrator of sensitive documents in open law enforcement files. That is certainly the lesson that history teaches, and I believe you will agree that it is incumbent on both of our Branches to avoid constitutional confrontations so long as the needs and prerogatives of each Branch can be harmonized.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C. November 30, 1982.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to your letter to me of November 8, 1982, in which you, on behalf of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce of the House of Representatives, continue to seek to compel the production to your Subcommittee of copies of sensitive open law enforcement investigative files (referred to herein for convenience simply as "law enforcement files") of the Environmental Protection Agency ("EPA"). Demands for other EPA files, including similar law enforcement files, have also been made by the Subcommittee on Investigations and Oversight of the Public Works and Transportation Committee of the House of Representatives.

Since the issues raised by these demands and others like them are important ones to two separate and independent Branches of our Nation's Government, I shall reiterate at some length in this letter the longstanding position of the Executive Branch with respect to such matters. I do so with the knowledge and concurrence of the President.

As the President announced in a memorandum to the Heads of all Executive Departments and Agencies on November 4, 1982, "[t]he policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch. . . . [E]xecutive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary." Nevertheless, it has been the policy of the Executive Branch throughout this Nation's history generally to decline to provide committees of Congress with access to or copies of law enforcement files except in the most extraordinary circumstances. Attorney General Robert Jackson, subsequently a Justice of the Supreme Court, restated this position to Congress over forty years ago:

"It is the position of [the] Department [of Justice], restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to 'take care that the laws be faithfully executed,' and that congressional or public access to them would not be in the public interest.

"Disclosure of the reports could not do otherwise than seriously prejudice law enforcement. Counsel for a defendant or prospective defendant, could have no greater help than to know how much or how little information the Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain."

This policy does not extend to all material contained in investigative files. Depending upon the nature of the specific files and the type of investigation involved, much of the information contained in such files may and is routinely shared with Congress in response to a proper request. Indeed, in response to your Subcommittee's request, considerable quantities of documents and factual data have been provided to you. The EPA estimates that approximately 40,000 documents have been made available for your Subcommittee and its staff to examine relative to the three hazardous waste sites in which you have expressed an interest. The only documents which have been withheld are those which are sensitive memoranda or notes by EPA attorneys and investigators reflecting enforcement strategy, legal analysis, lists of potential witnesses, settlement considerations and similar materials the disclosure of which might adversely affect a pending enforcement action, overall enforcement policy, or the rights of individuals.

I continue to believe, as have my predecessors, that unrestricted dissemination of law enforcement files would prejudice the cause of effective law enforcement and, because the reasons for the policy of confidentiality are as sound and fundamental to the administration of justice today as they were forty years ago, I see no reason to depart from the consistent position of previous presidents and attorneys general. As articulated by former Deputy Assistant Attorney General Thomas E. Kauper over a decade ago:

"The Executive cannot effectively investigate if Congress is, in a sense, a partner in the investigation. If a congressional committee is fully apprised of all details of an investigation as the investigation proceeds, there is a substantial danger that congressional pressures will influence the course of the investigation."

Other objections to the disclosure of law enforcement files include the potential damage to proper law enforcement which would be caused by the revelation of sensitive techniques, methods or strategy, concern over the safety of confidential informants and the chilling effect on sources of information if the contents of files are widely disseminated, sensitivity to the rights of innocent individuals who may be identified in law enforcement files but who may not be guilty of any violation of law, and well-founded fears that the perception of the integrity, impartiality and fairness of the law enforcement process as a whole will be damaged if sensitive material is distributed beyond those persons necessarily involved in the investigation and prosecution process. Our policy is premised in part on the fact that the Constitution vests in the President and his subordinates the responsibility to "take care that the Laws be faithfully executed". The courts have repeatedly held that "the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case . . . ." *United States* v. *Nixon*, 418 U.S. 683, 693 (1974).

The policy which I reiterate here was first expressed by President Washington and has been reaffirmed by or on behalf of most of our Presidents, including Presidents Jefferson, Jackson, Lincoln, Theodore Roosevelt, Franklin Roosevelt, and Eisenhower. I am aware of no President who has departed from this policy regarding the general confidentiality of law enforcement files.

I also agree with Attorney General Jackson's view that promises of confidentiality by a congressional committee or subcommittee do not remove the basis for the policy of nondisclosure of law enforcement files. As Attorney General Jackson observed in writing to Congressman Carl Vinso, then Chairman of the House Committee on Naval Affairs, in 1941:

"I am not unmindful of your conditional suggestion that your counsel will keep this information 'inviolate until such time as the committee determines its disposition.' I have no doubt that this pledge would be kept and that you would weigh every consideration before making any matter public. Unfortunately, however a policy cannot be made anew because of personal confidence of the Attorney General in the integrity and good faith of a particular committee chairman. We cannot be put in the position of discriminating between committees or of attempting to judge between them, and their individual members, each of whom has access to information once placed in the hands of the committee."

Deputy Assistant Attorney General Kauper articulated additional considerations in explaining why congressional assurances of confidentiality could not overcome concern over the integrity of law enforcement files:

"[S]uch assurances have not led to a relaxation of the general principle that open investigative files will not be supplied to Congress, for several reasons. First, to the extent the principle rests on the prevention of direct congressional influence upon investigations in progress, dissemination *to* the Congress, not by it, is the critical factor. Second, there is the always present concern, often factually justified, with 'leaks.' Third, members of Congress may comment or publicly draw conclusions from such documents, without in fact disclosing their contents."

It has never been the position of the Executive Branch that providing copies of law enforcement files to congressional committees necessarily will result in the documents' being made public. We are confident that your Subcommittee and other congressional committees would guard such documents carefully. Nor do I mean to imply that any particular committee would neces-

sarily "leak" documents improperly although, as you know, that phenomenon has occasionally occurred. Concern over potential public distribution of the documents is only a part of the basis for the Executive's position. At bottom, the President has a responsibility vested in him by the Constitution to protect the confidentiality of certain documents which he cannot delegate to the Legislative Branch.

With regard to the assurance of confidential treatment contained in your November 8, 1982 letter, I am sensitive to Rule XI, cl. 2, § 706c of the Rules of the House of Representatives, which provides that "[a]ll committee hearings, records, data, charts, and files . . . shall be the property of the House and *all Members of the House shall have access thereto*. . . ." In order to avoid the requirements of this rule regarding access to documents by all Members of the House, your November 8 letter offers to receive these documents in "executive session" pursuant to Rule XI, cl. 2, § 712. It is apparently on the basis of § 712 that your November 8 letter states that providing these materials to your Subcommittee is not equivalent to making the documents "public." But, as is evident from your accurate rendition of § 712, the only protection given such materials by that section and your understanding of it is that they shall not be made public, in your own words, "without the consent of the Subcommittee."

Notwithstanding the sincerity of your view that § 712 provides adequate protection to the Executive Branch, I am unable to accept and therefore must reject the concept that an assurance that documents would not be made public "without the consent of the Subcommittee" is sufficient to provide the Executive the protection to which he is constitutionally entitled. While a congressional committee may disagree with the President's judgment as regards the need to protect the confidentiality of any particular documents, neither a congressional committee nor the House (or Senate, as the case may be) has the right under the Constitution to receive such disputed documents from the Executive and sit in final judgment as to whether it is in the public interest for such documents to be made public.[1] To the extent that a congressional committee believes that a presidential determination not to disseminate documents may be improper, the House of Congress involved or some appropriate unit thereof may seek judicial review (see *Senate Select Committee* v. *Nixon*, 498 F.2d 725 (D.C. Cir. 1974)), but it is not entitled to be put in a position unilaterally to make such a determination. The President's privilege is effectively and legally rendered a nullity once the decision as to whether "public" release would be in the public interest passes from his hands to a subcommittee of Congress. It is not up to a congressional subcommittee but to the courts ultimately " 'to say what the law is' with respect to the claim of privilege presented in [any particular] case." *United States* v. *Nixon*, 418 U.S. at 705, quoting *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803).

I am unaware of a single judicial authority establishing the proposition which you have expounded that the power properly lies only with Congress to determine whether law enforcement files might be distributed publicly, and I am compelled to reject it categorically. The crucial point is not that your Subcommittee, or any other subcommittee, might wisely decide not to make public sensitive information contained in law enforcement files. Rather, it is that the President has the constitutional responsibility to take care that the laws are faithfully executed; if the President believes that certain types of information in law enforcement files are sufficiently sensitive that they should be kept confidential, it is the President's constitutionally required obligation to make that determination.[2]

These principles will not be employed to shield documents which contain evidence of criminal or unethical conduct by agency officials from proper review. However, no claims have been advanced that this is the case with the files at issue here. As you know, your staff has examined many of the documents which lie at the heart of this dispute to confirm that they have been properly characterized. These arrangements were made in the hope that that process would aid in resolving this dispute. Furthermore, I understand that you have not accepted Assistant Attorney General McConnell's offer to have the documents at issue made available to the Members of your Subcommittee at the offices of your Subcommittee for an inspection under conditions which would not have required the production of copies and which, in this one instance, would not have irreparably injured our concerns over the integrity of the law enforcement process. Your apparent rejection of that offer would appear to leave no room for further compromise of our differences on this matter.

In closing, I emphasize that we have carefully reexamined the consistent position of the Executive Branch on this subject and we must reaffirm our commitment to it. We believe that this policy is necessary to the President's responsible fulfillment of his constitutional obligations and is not in any way an intrusion on the constitutional duties of Congress. I hope you will appreciate the historical perspective from which these views are now communicated to you and that this assertion of a fundamental right by the Executive will not, as it should not, impair the ongoing and constructive relationship that our two respective Branches must enjoy in order for each of us to fulfill our different but equally important responsibilities under our Constitution.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

[Attachment B]

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,

Re Response to Legal Memorandum of the General Counsel to the Clerk of the House of Representatives Regarding Executive Privilege.

MEMORANDUM FOR THE ATTORNEY GENERAL

On December 8, 1982, the General Counsel to the Clerk of the House of Representatives transmitted to Chairman Levitas of the Subcommittee on Investigation and Oversight of the House Committee on Public Works and Transportation a memorandum (attached) (hereafter "General Counsel Memorandum") responding to your November 30, 1982 letter to Chairman Dingell of the Subcommittee on Oversight and Investigation of the House Committee on Energy and Commerce dealing with the assertion of Executive Privilege over documents found in open law enforcement files. This memorandum will discuss the more substantial inaccuracies and mischaracterizations in the General Counsel Memorandum. We will not in this memorandum attempt to restate or reconsider the analysis in your November 30 letter to Chairman Dingell, because the General Counsel Memorandum does not suggest the need to do so.

Before responding to the specific points raised by the General Counsel Memorandum, certain general observations are in order. First, although the General Counsel Memorandum relies on or cites to 13 separate court decisions in support of the various propositions asserted, not a single one of those authorities deals with an assertion of Executive Privilege by the President in response to a subpoena issued by a congressional committee or even a claim of Executive Privilege against a Judicial Branch Subpoena. For some reason not disclosed in the General Counsel Memorandum, it does not even mention the major judicial authorities which do treat the subject of Executive Privilege. Thus, as is often our experience in these situations, the legal argument put forward by a congressional entity to counter the Executive's legal position on this issue fails to grapple with the extant judicial authority that is either directly in point, e.g., *Senate Select Committee on Presidential Campaign Activities* v. *Nixon*, 498 F.2d 725 (1974), or is highly relevant to the issues at hand, e.g., *United States* v. *Nixon*, 418 U.S. 683 (1974). Although such cases are relatively few in our jurisprudence, any responsible attempt to address the profoundly important issues presented by a confrontation such as the present one between the two coequal Branches must confront and attempt to apply available precedent.

Second, the main thrust of the General Counsel Memorandum consists of an explanation and defense of the constitutional basis for Congress' power to investigate generally and to investigate the Executive Branch specifically. Neither your letter of November 30, 1982 to Chairman Dingell, your opinion to the President of October 13, 1981 on the subject of Executive Privilege, nor any of the authorities authored in the Executive Branch upon which those documents rely have questioned in any way that Congress may appropriately empower its

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[1] Your November 8 letter points out that in my opinion of October 13, 1981 to the President, a passage from the Court's opinion in *United States* v. *Nixon*, 418 U.S. 683 (1974), was quoted in which the word "public" as it appears in the Court's opinion was inadvertently omitted. That is correct, but the significance you have attributed to it is not. The omission of the word "public" was a technical error made in the transcription of the final typewritten version of the opinion. This error will be corrected by inclusion of the word "public" in the official printed version of that opinion. However, the omission of that word was not material to the fundamental points contained in the opinion. The reasoning contained therein remains the same. As the discussion in the text of this letter makes clear, I am unable to accept your argument that the provision of documents to Congress is not, for purposes of the President's Executive Privilege, functionally and legally equivalent to making the documents public, because the power to make the documents public shifts from the Executive to a unit of Congress. Thus, for these purposes the result under *United States* v. *Nixon* would be identical even if the Court had itself not used the word "public" in the relevant passage.

[2] It was these principles that were embodied in Assistant Attorney General McConnell's letters of October 18 and 25, 1982 to you. Under these principles, your criticism of Mr. McConnell's statements made in those letters must be rejected. Mr. McConnell's statements represent an institutional viewpoint that does not, and cannot, depend upon the personalities involved. I regret that you chose to take his observations personally.

committees to investigate the Executive Branch's conduct of its duties and responsibilities. The challenge and responsibility in situations involving competing interests and obligations of the two coequal Branches is to attempt, to the extent possible, to balance the competing interests of the two Branches. The General Counsel Memorandum neither recognizes the Executive's constitutional prerogative nor attempts to balance the competing interests. Hence, because the General Counsel Memorandum essentially asserts the existence of general congressional powers which the Executive has not disputed, ignores the relevant legal authorities in favor of decisions largely irrelevant to the present dispute, and does not seriously address the need of the two Branches to accommodate the interests of the other, there is very little in the General Counsel Memorandum to which a response can be made.

Third, the General Counsel Memorandum contains no discussions of, and reflects no appreciation for, the principle of separation of powers which is fundamental to our Constitution and, of course, to the most basic understanding of the concept of Executive Privilege.[1] The General Counsel Memorandum proceeds from the unstated premise that congressional power to investigate and to demand and receive documents in the possession of the Executive Branch is unlimited,[2] irrespective of claims by the Executive that release of certain information by the Executive Branch to the Legislative Branch would impair the President's constitutional obligation to "take care that the Laws be faithfully executed." Art. II, Section 3. The Framers of our Constitution regarded the combination of the powers of government as "the very definition of tyranny." The Federalist, No. 47 (Madison). They were particularly concerned about the threat of combining the power to legislate and the power to execute the law. They agreed with Montesque that "there can be no liberty" "when the legislative and executive powers are united in the same person or body." *Id.*

Furthermore, because the legislative power was so great, "where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reasons prescribe; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."—The Federalist, No. 48 (Madison).

Without some recognition of these principles, including the concept that there are limits on the power of the Legislative Branch and that there are functions which were deliberately vested in the Executive Branch and placed beyond the reach of the Legislative Branch, it is not possible to present an objective analysis of Executive Privilege or its application to particular circumstances.[3]

These deficiencies in the General Counsel Memorandum can, we believe, be easily traced to the historical attitude of congressional counsel in these clashes between the two political Branches over access to documents. For example, counsel for the Senate Select Committee on Presidential Campaign Activities (the "Watergate" Committee) argued to the Court of Appeals in *Senate Select Committee on Presidential Campaign Activities* v. *Nixon, supra,* that the district court below had no authority to balance the competing interests of the Executive and Congress once that court had rejected the Executive's claim of an absolute privilege. But, as the Court of Appeals pointed out in its opinion, a prior decision of that same court, *Nixon* v. *Sirica,* 487 F.2d 700 (D.C. Cir. 1973), had already squarely rejected the proposition that either the Executive or Legislative Branches has any absolute rights in this area or that either could sit in final judgment of the rights implicated in any particular disputes. 498 F.2d at 729. Our point here is simple but important: because the General Counsel Memorandum makes no serious attempt to weigh the competing interests of the two Branches in the context of the present facts and circumstances, it is largely beside the point. What follows are specific rejoinders to points made in the General Counsel Memorandum which we believe to warrant comment.

1. Characterization of the Executive's position

The General Counsel Memorandum mischaracterizes your position on two important points and proceeds, using the rhetorical "straw man" device, to refute positions which you have not asserted.

The General Counsel Memorandum states that your position is "that the information is beyond the reach of congressional subpoena power because it is 'sensitive' material in 'law enforcement files . . . ,'" (p. 1) and that your premise is that "Congress cannot subpoena material in law enforcement files." (p. 2) However, your position is much more limited—that the information at issue here is of a peculiar and special nature such that its disclosure would impair the President's ability to enforce the law and that such information need not be disclosed by the Executive absent extraordinary circumstances.

The only interest which has been asserted by the Legislature in seeing the material in such sensitive segments of files is identified in the General Counsel Memorandum as a "right to see how the laws it passes are being administered and enforced, and whether those charged with responsibility [for enforcement] are adequately and properly performing their responsibility." (p. 3) The authority relied upon by the General Counsel Memorandum on this point, *McGrain* v. *Daugherty,* 273 U.S. 135 (1926), involved a subpoena issued to the brother of a former Attorney General. Nowhere in that case did the Supreme Court suggest that the subpoena power exercised in that case by a congressional committee could have been used to obtain production of documents in open law enforcement files. Furthermore, the Court was careful to point out that the congressional investigation then underway for which the subpoena had been issued was based upon highly specific alleged acts of criminal misconduct and malfeasance in office by the former Attorney General. *Id.* at 150–52. Thus, not only did *McGrain* not involve a subpoena directed to the Executive, a characteristic, as noted above, common to all the judicial authority relied upon by the General Counsel Memorandum, but it involved a factual situation which arguably could constitute the kind of extraordinary circumstance contemplated by your opinion to the President of October 13, 1981 and your letter to Chairman Dingell of November 30, 1982.[4]

Next, the General Counsel Memorandum mischaracterizes and then rejects your position that the Committee's offer to receive the information in "executive session" does not eliminate the Executive Branch's constitutional concerns and that release under such circumstances effectively destroys the President's privilege. The General Counsel Memorandum states that your view of "executive session proceedings . . . is nevertheless disturbing because it is based on a complete misunderstanding of the constitutional basis for Congress' authority to receive 'secret' information." (p. 1).

Three responses to this segment of the General Counsel Memorandum come to mind. First, nowhere does the Memorandum challenge your position that once the documents are provided to a Committee, the President in fact and in law loses control to the extent that the Committee has, from that time forward, the unilateral right to make any use of the documents it sees fit to make. Instead, the Memorandum seems to view the issue as whether the power of the Committee to receive documents in executive session provides a "legal basis for providing that information." The question is not, of course, whether there is or is not a legal basis for the President's deciding to provide this type of information to Congress in certain circumstances. It is, rather, whether there is any legal entitlement in a Committee to receive such information if the President decides that it would be inconsistent with his constitutional responsibilities to furnish it in the specific circumstances surrounding a particular Committee request or subpoena. The General Counsel Memorandum seems to proceed from the proposition that, because Congress is constitutionally permitted to keep a secret, three separate but related *non sequiturs* follow: (a) Congress and its staff will keep secret that which it is entitled to keep secret;[5] (b)

[1] "The privilege is fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." *United States* v. *Nixon, supra,* 418 U.S. at 708.

[2] On December 3, 1982 the Chairman of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce stated that Members of Congress "have the power under the law to receive each and every item of information in the hands of the government. . . ." Remarks by Chairman Dingell, Transcript, p. 162.

[3] The General Counsel Memorandum discusses the enumerated power of the Legislative Branch under the Constitution to maintain necessary secrecy. The Memorandum simply ignores that "the protection of the confidentiality of Presidential communications has similar constitutional underpinnings." *United States* v. *Nixon, supra,* 418 U.S. at 705–06.

[4] The General Counsel Memorandum at 3 observes that your letter to Chairman Dingell of November 30, 1982 "does not discuss the congressional reach of investigatory power established by *McGrain,* and he does not distinguish it from the situation here." As indicated above, the legal point decided by *McGrain*—the enforceability of a congressional subpoena against a private person in the context of an investigation of alleged corruption in the Department of Justice—does not address the additional issues presented by a congressional subpoena for documents in the Executive Branch. In addition, the facts in *McGrain* supporting the investigation are so obviously different from those present in the instant case that there is little need to draw a comparison. The Legislative Branch understandably and continuously quotes from *McGrain* because that decision expansively describes Congress's investigative powers. However, the case is not otherwise germane to the present dispute.

[5] During the December 2, 1982 hearing by the Investigations and Oversight Subcommittee of the

Congress is constitutionally entitled to all information in the possession of the Executive because it has the power to keep the information secret; and (c) the President has not lost control of the information because Congress has the power to keep it secret. None of these conclusions follow from the premise—a premise which you have never disputed in the first place.

Second, the General Counsel Memorandum suggests that the *ability* of Congress to keep documents received in executive session "secret" and the courts' recognition of that ability in the context of information sought from private parties somehow is relevant to the instant dispute. All that can be said from this suggestion is that it is consistent with the overall thrust of the General Counsel Memorandum, which is that the President is to be treated for these purposes not as the head of a coequal Branch but, rather, as a private person.[6]

Third, the General Counsel Memorandum appears to suggest that the fact that material over which the President could assert privilege is often turned over to Congress establishes an unrestricted right in Congress to receive all information in the possession of the Executive Branch over the objection of the President. The argument is nothing less that an assertion that the customary attitude of the Executive Branch in attempting to accommodate requests for information by Congress and to avoid needless friction between the two Branches has effectively destroyed Executive Privilege itself. The proposition is, of course, absurd and its assertion as a serious proposition is particularly frivolous in light of the history of refusal by the Executive to furnish documents in open law enforcement files.

2. The scope of Attorney General Jackson's 1941 letter to Chairman Vinson

At several points, the General Counsel Memorandum, (see pp. 3 and 10), suggests that your reliance on Attorney General Jackson's letter to Chairman Vinson, 40 Op. A.G. 45 (1941), is misplaced because, according to the General Counsel Memorandum, that opinion was limited to "nondisclosure of the FBI's criminal investigative files." Thus, the Memorandum states that application of the 1941 letter to the present situation represents "an enormous extension of secrecy." (p. 3) The General Counsel's reading of that 1941 letter is patently erroneous.

The word "criminal" does not appear a single time in the 1941 letter. The specific request for information to which Attorney General Jackson responded covered investigations of both "alleged violations of law" and investigations to gather "intelligence" information, the latter decidedly non-criminal and the former not qualified by the word criminal and not necessarily confined to criminal matters. 41 Op. A.G. at 50. Furthermore, Attorney General Jackson's letter was in response not only to Chairman Vinson's letter but to two other letters raising a very general and pervasive problem. Finally, and of particular significance given the tortured reading of Attorney General Jackson's letter by the General Counsel Memorandum, every example of prior Presidential refusals to provide documents in investigative files to Congress relied upon by Attorney General Jackson involved cases implicating the federal antitrust laws under which, historically, civil rather than criminal prosecution would have been the usual course of action.

It does not seem conceivable or credible to assert any doubt regarding the breadth of Attorney General Jackson's statement regarding the historic position of the Executive on this matter. Examples abound. Attorney General Jackson did not attempt to cite every instance. Nor did your letter of November 30, 1982 to Congressman Dingell. Another example which neither you nor Attorney General Jackson mentioned, and which is overlooked by the General Counsel Memorandum in an effort arbitrarily to narrow the scope of Attorney General Jackson's opinion, is President Truman's letter to Congressman Frank L. Chelf in March of 1952. Congressman Chelf, as Chairman of a Special Subcommittee of the Judiciary, had demanded a wide range of documents from various Executive Branch Departments including, among others, a list of all cases referred to the Department of Justice or the U.S. Attorneys for either criminal or *civil* action . . . within the last six years . . . ," (emphasis added), in which action had been declined, the case had been returned or where the case had been pending in the Department for more than one year. President Truman rejected the request, declaring, *inter alia*, that while the investigative functions of Congress were important, the Constitution vested the executive power in the President and imposed on him the duty to see that the laws were faithfully executed and that "Congressional power should be exerted only in a fashion that is consistent with the proper discharge of the Constitutional responsibilities of the Executive Branch."

Another example is Attorney General Brownell's Order No. 116-56 issued on May 15, 1956. In that order, which specifically addressed requests for documents by congressional committees and which specifically covered both civil and criminal cases, the Attorney General distinguished only between open and closed cases. The order applied to all cases over which the Department of Justice had enforcement responsibility and, with regard to open cases, the policy was quite simple: "If the request [of a congressional committee] concerns an open case, *i.e.*, one which litigation or administrative action is pending or contemplated, the file may not be made available. . . ."

Finally, we would observe that the limitation placed on access by Congress to document in open investigative files by Attorneys General Jackson and Brownell, by President Truman, and by the other Presidents and Attorney Generals which were mentioned in Attorney General Jackson's opinion are, if anything, far greater than the policy adopted by President Reagan in his November 30, 1982 Memorandum to Administrator Gorsuch. Under both the Jackson and Brownell views, for example, congressional committees were to receive *no* documents found in open investigative files in criminal or civil actions; under current policy much effort will be expended by Executive personnel to segregate out from these files only sensitive, deliberative documents that meet the criteria set out in your November 30, 1982 letter to Chairman Dingell. Thus, it is plain that the assertion of the General Counsel Memorandum that the current policy is an "enormous extension of secrecy" is not only unsupported by any references in that Memorandum to authorities or specific historic facts, it is flatly contrary to the facts. The policy of this Administration is *less* restrictive than its predecessors.

3. The rights of potential targets of investigations

The General Counsel Memorandum strives at great length to establish the proposition that the constitutional rights of potential targets of enforcement actions will not be endangered unacceptably by the documents being made available to congressional committees. It is, of course, not surprising that the courts have been generally reluctant to reverse the convictions of criminal defendants because of pre-trial publicity generated by congressional inquiry into specific cases. That reluctance, however, in no way establishes the proposition implicit in the General Counsel Memorandum that a Nation constitutionally committed to fair and impartial administration of criminal and civil justice would or should tolerate trial by congressional committee. While this basic protection to innocent persons was not stressed as a major rationale for your November 30, 1982 position, it was articulated as one of the factors and was predicated not just on constitutional considerations, but on basic notions of fairness and decency. The General Counsel Memorandum seems to suggest that if a subsequent conviction would not be overturned on constitutional grounds, these considerations somehow vanish. That clearly does not seem to be the case, and most importantly, the argument seems to ignore completely the rights of innocent persons against whom no charges are ever brought.

4. The committee's purpose

The General Counsel Memorandum states that the Subcommittee, in subpoenating the documents, "seeks not to influence individual enforcement decisions, but rather to review the integrity and effectiveness of EPA's enforcement program and to evaluate the adequacy of existing law." (p. 6) We assume that the General Counsel Memorandum would necessarily have to assume such good faith on the part of the Subcommittee. Your articulation of the basis for the invocation of executive privilege similarly assumes such good faith not only by this Subcommittee, but by any congressional committee seeking Executive Branch documents. However, any policy in this area must assume, as Attorney General Jackson's 1941 Opinion did assume, the *possibility* of misuse along with proper use of sensitive information and, if the information is very important to a pending or developing case, it should not be disseminated beyond those directly involved in the enforcement process. It is theoretically possible that parties seeking access to documents or parties who might obtain access to documents sought by others might have relationships with potential defendants (in this case, generators of the chemicals in the hazardous waste sites). In such a situation, faith in the integrity of the process might subsequently turn out to have been misplaced and the damage would not be limited to a particular enforcement action, but to the integrity of law enforcement as a whole. Hence, if the tactical materials will not make a critical contribution to the legislative process and are primarily useful to law enforcement officials (and the potential defendant), proper attention to the faithful execution of the law requires that the circle of access to the open law en-

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House Public Works and Transportation Committee, Congressman Roemer, addressing the Subcommittee's staff, declared: "I will tell you as one member of this Subcommittee, we ought to do and encourage you to do everything possible not just to amass the information, but to turn it over to the public. . . ." p. 38.

[6] Or, perhaps, as put by Congressman Roe at the December 2 hearing "there obviously is a breach between ourselves, the governing body of the Nation, and the Executive Branch." p. 90.

forcement file be kept as narrow as possible. The General Counsel Memorandum misses this and the following two additional crucial points.

First, the Legislative Branch was not empowered by the Constitution to participate directly and intimately in the enforcement of the law. Cf. *Buckley* v. *Valeo*, 424 U.S. 1, 138-43 (1976).

Second, and related to the first point, nowhere in the General Counsel Memorandum is there any explanation as to why access to *open* law enforcement files is necessary in order for the committee to perform its legitimate legislative duties. It is true that because of the relatively recent enactment of CERCLA, there are probably only a small number of closed cases the files of which could probably be made available to the committee as a way of the committee's studying the manner in which CERCLA is being implemented by the Executive. But until the committee can establish that its access to the files in closed cases coupled with the many other means by which it may inquire into this issue, including the testimony of high EPA officials regarding overall EPA strategy, methods and objectives, then there is no reason, as a matter of policy, let alone law, why the committee should have sensitive material turned over to it. As the Court of Appeals for the District of Columbia summarized the test, a test which the Subcommittee has simply not attempted to meet: "The sufficiency of the Committee's showing must depend solely on whether the subpoenaed evidence is *demonstrably critical* to the responsible fulfillment of the Committee's functions." *Senate Select Committee* v. *Nixon*, *supra*, 498 F.2d at 731 (emphasis added).

Conclusion

Because your prior analyses of this subject have fully recognized the legitimate interests of the Legislative Branch to investigate and oversee the execution of the law by the Executive Branch, the almost total focus on the rights of Congress in this matter by the General Counsel Memorandum adds virtually nothing to the present debate. Because the documents in issue which would be turned over to the Subcommittee become totally subject to the control of the Subcommittee, the Memorandum's discussion of the Subcommittee's power to maintain their confidentiality is beside the point. The underlying premise of the argument is that Congress has the unilateral power to determine whether the release of Executive Branch documents is, or is not, in the public interest. That theory is nothing more than an abnegation of the doctrine of Executive Privilege. The President cannot retain a privilege while turning over to Congress the decision whether it should be exercised. Finally, the attempt of the General Counsel Memorandum to portray your position, and that of the President, as an "extension of secrecy" is not only contrary to demonstrated historical fact but fails to recognize that the current policy is far more accommodating of the interests of Congress than has been past Executive policy as illustrated by the positions of Attorneys General Jackson and Brownell.

THEODORE B. OLSON,
Assistant Attorney General,
Office of Legal Counsel.

CONSERVATIVE OR LIBERAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, as I finish my eight terms of service in Congress, I look back upon the way I have been described as a conservative Member. Many people use the broad terms "conservative" or "liberal," to define a Congressman's position as he votes his record in Washington. A conservative is one who votes for a balanced budget, less Government spending, fewer Government regulations, a larger national defense, equality for all with less regulations, and complete freedom in religion. A conservative believes Congress should meet 4 months out of the year and go home to work and hear constituents for 8 months. A conservative basically wants to have a representative Federal Government with decentralized powers to the States and local governments.

A liberal is one who believes in providing more revenue for welfare needs, less defense spending, expanding Government service through deficit financing, broader human resources and welfare programs, more detailed regulations for industry, and definitive religious limits. A liberal believes Congress should be in continual session for 12 months, and basically wants to have a very strong, powerful centralized government.

The press views liberals in these terms. The press says liberals are modern and up to date, pragmatic, compassionate, warmhearted, alert, understanding, intelligent, creative, innovative, and progressive with new legislation.

A conservative, as the press describes them, live in the Neanderthal age, dinosaur brain, narrowminded, square, bigoted, nut, selfish, predictable, cold, lacks vision, old fashioned, idealistic, moralistic, thinskinned, loudmouthed, reactionary, and abrasive with no heart for the common man.

I have served for 8 terms in Congress, during this 13-term stretch the liberal Democrats have controlled and dominated our House. One must realize the press is not as objective as they sometimes see themselves.

We realize that the press likes to see innovative and creative legislation because it gives them more stories about which to write. The press wants to see Congress in continual session because they are limited on news stories when we are home. New ideas to provide Government benefits, so people get something free, is what sells newspapers.

As a conservative, I hope that Congress realizes the financial pressure that deficit budgets place on our country causing inflation and higher interest rates. America need conservatives to follow the spirit of George Washington, Abraham Lincoln, and Ronald Reagan.

I remember when I was young, a liberal was someone who was generous in giving away his own money. But today a liberal is one who is generous in spending the Government's money.

My dad was a paradox. In politics he was opposed to Government deficit spending, so folks called him conservative. But he gave away everything he had, so universities and hospitals called him liberal.

Why was my dad against deficit finances? You see, he grew up in poverty. Now he never considered it poverty, because I asked him one time about poverty as a boy, and he got red in the face. He was furious. He told me he never lived in poverty.

When my grandmother died, granddad could not take care of his two boys so he put the two of them, ages 7 and 9, out to live with their uncle. The kinsfolks welcomed them and shared everything. Dad slept on a pallet on the floor. He worked everyday on the farm as soon as he got home from school. But they had love in the family, and he grew up with pride and self respect. My dad was poor but honest, and he knew how to work hard. So he voted conservative and in the church house he was known as a liberal.

I have been in continual hearings where liberal members are objecting to phone rates going up. Liberals object to electricity rates going up. Liberals object to natural gas going up. Ask yourself, why do we have a higher cost of living? This year, 1982, the Federal Government will borrow $210 billion beyond its income. The liberals voted this big Government spending. Now the poor of America have to pay the price of not having a balanced budget in Congress.

I came here to Congress eight terms ago as a conservative. I leave more firmly dedicated to being a conservative. America has more Government than we need, America has more regulations than the people want, and America has more taxes than the people can afford to pay. Down in Texas we still firmly believe in God and family and country.

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Mr. BETHUNE. Mr. Speaker, will the gentleman yield to me?

Mr. COLLINS of Texas. I will be glad to yield to my friend, the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Speaker, I just want to say this may be the last occasion that I would have to say to the gentleman that I have listened carefully to the remarks that he has made over the 4 years that I have been here. He certainly is one of the most dynamic speakers in the House, in my view.

Some may not agree with that statement because the gentleman does not gesticulate or speak as loudly as others, but I think the thing that impresses me is the sincerity with which the gentleman has always spoken in the well of the House.

I have never been surprised by what he has said because he has a set of fundamental principles that guide him and I always know just exactly where he is going to wind up on a particular issue.

This House is going to miss the gentleman from Texas and I hope that we will see a lot of him in the next few years because, JIM, you are a tonic for all of us, because you are so plainspoken and the things that you say ring true and I know that the people out there who listen to this on television, to these House proceedings, can relate to what you say because you say it in a way that they would say it in the coffee shops, nothing fancy, just plain, but I think you are right.

We are going to miss the gentleman here.

Mr. COLLINS of Texas. Mr. Speaker, I want to thank the distinguished gentleman from Arkansas, for whom I have the most respect and who has such a great, tremendous future here in the House.

I want to tell the gentleman that his folks up in Arkansas, I know them, they may not be the richest folks; as they say, they are poor but honest, but they are the salt of the Earth and believe in that fundamental that makes America great: Those of us who believe in God, family, and country. The gentleman represents them the very best.

Mr. Speaker, I appreciate everything the gentleman said.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) entitled "An act to extend the Commodity Exchange Act, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) entitled "An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 14, 37, and 70 to the above-entitled bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3103. An act to amend section 1304(e) of title 5, United States Code.

TRIBUTE TO MRS. HARRY S. TRUMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 60 minutes.

Mr. SKELTON. Mr. Speaker, all Americans were saddened on October 18, 1982, to learn of the death of one of our Nation's most beloved citizens, former First Lady Bess Truman. I have asked that the House of Representatives pause in it deliberations and set aside this time so that all Members may have the opportunity, on behalf of themselves and their constituents, to pay tribute to Mrs. Truman.

Mrs. Truman was born Elizabeth Virginia Wallace on February 13, 1885, in Independence, Mo. As a child and young woman, she excelled in sports and in school. At age 6, she met a classmate, Harry S. Truman, and she was the only girl he ever courted. They were married in a simple ceremony in the Trinity Episcopal Church in Independence on June 28, 1919, following President Truman's return from Army service in World War I. They made their home in Mrs. Truman's family home in Independence. This familiar white, Victorian house remained the Truman home throughout their years in Washington, and following President Truman's retirement from public office. It is this house that Mrs. Truman, in a gesture typical of her, generously bequeathed to the American people.

There can be no question that the Truman marriage was a true partnership. In his years in public office, President Truman faced many challenging and difficult decisions. Though the final word was always his, President Truman routinely consulted the woman he affectionately referred to as "the Boss" on these matters. He respected her keen mind, her good judgment, and her practical commonsense. Indeed, when President Truman was a Member of the Senate, Mrs. Truman served for a time as a member of the staff of his Senate Special Committee To Investigate the Defense Program. Regarding her contribution, President Truman said:

I never make a speech without going over it with her, and I never make any decision unless she is in on it . . . not one of these reports has been issued without going through her hands.

Though her contributions to President Truman's public service were real and substantial, it was her personal qualities that made Bess Truman as popular a First Lady as we have ever had. The flood of eulogies from the media and from friends that followed her death attest to the affection and respect which the American people held for Mrs. Truman. She was variously, and correctly, described as warm, modest, friendly, homeloving, thoughtful, and generous. She was lauded for her wonderful sense of humor, her integrity, her graciousness, and for her sense of duty, dignity, and quiet pride.

Mrs Truman had all of these qualities in abundance. I had the privilege to know her personally, and to represent her in Congress for the past 6 years. I can honestly say that she was one of the most remarkable women I have ever met. But, as I joined the others at her funeral services in Independence, I had cause to reflect on one aspect of Mrs. Truman's personality which I believe helps explain why Americans find so much reassurance and inspiration in the down-to-earth virtues which she personified.

Mr. Speaker, Bess Truman knew who she was and she never forgot where she came from. Her values were those of small town middle America, and they remained constant despite her 17 years in Washington as the wife of a U.S. Senator, Vice President, and President.

Though pressured by many to do so, Mrs. Truman refused to emulate her predecessor as First Lady, the renowned and controversial Eleanor Roosevelt. Confident of her own values and lifestyle, she had little inclination to change, even though her husband had been elevated to the highest office in the land. She preferred to be removed from the spotlight, and she relished the simple, private life in Independence with her family and her life-long friends.

Mr. Speaker, Bess Truman's long, full life of 97 years should be a model for us all. Even in the glare of publicity that surrounds the Presidency, she remained modest and unaffected, and she kept her priorities in order—her family came first. She was a great lady, and she will be missed. I know all Members of the House will want to join me in extending their deepest sympathy to Mrs. Truman's daughter, Margaret, her son-in-law, and her four grandchildren.

□ 1950

● Mr. WRIGHT. It is a privilege to join with my friend from Missouri (Mr. SKELTON) to express a thought or two in tribute to the memory of Bess Truman, a woman of character, determination, and fortitude.

She came as a young matron to Washington with her husband Harry when he was first elected to the Senate in 1934. She was a wife, a help-

meet, and a mother in the truest sense of those words. No one who ever knew her failed to be impressed with her ability to meet with quiet dignity and unpretentious self-assurance the tests that life brings to each of us.

At a time when world leadership was being thrust upon America, some of the most difficult decisions in the history of the world were placed at the desk of President Truman. He did not flinch from these decisions, no matter how awesome nor tortuous.

But Harry Truman, hero that he was, was, after all, a human being. Like all the rest of us, he needed the measure of confidence and companionship that only a devoted wife can bring. It is noteworthy, now 40 years later, to realize that precious little of Bess Truman's life ever wound up in the pages of the newspapers.

The unstinting and loyal support that she gave our President was never flaunted nor paraded about nor bandied through magazine articles nor the type of shallow "dear wifey" articles used by other political wives in other times.

It is obvious from a history of those times that Bess Truman was, above all, a quiet, dedicated helpmate, whose heart and soul were selflessly devoted to the man she loved—a man who happened to be, at that most crucial moment in history, the President of the United States.●

Mr. YOUNG of Missouri. Mr. Speaker, it is my pleasure to be able to join with the distinguished gentleman from Missouri, Congressman SKELTON, who represents Independence, Mo., today in honoring and paying tribute to a woman who disliked tributes. In fact, she disliked public attention of any kind.

Yet, for a number of years, she was in the limelight of national attention. To her husband, she was "the boss" and "my chief adviser." To the rest of the world in the late 1940's and early 1950's, she was the First Lady, Elizabeth Virginia Wallace Truman. That was her full name. But she simply preferred to be called Bess.

Bess Truman was a very private person. But Bess found herself trapped in a public fishbowl known as the White House. Harry Truman was elevated to the Presidency suddenly upon the death of Franklin D. Roosevelt. This cast Bess in the role of First Lady following in the footsteps of the very public Eleanor Roosevelt. But Bess very wisely decided not to take on a role in which she would be completely uncomfortable. Instead she remained a private person, but one who was very much a part of the Harry Truman Presidency. She was warm and gracious in hosting official White House functions. But when she was not directly called upon, Bess preferred to stay where she felt most comfortable—and that was in her husband's shadow. That was her place—as a supporter and personal adviser to her husband, the President.

I was a young man serving my country in World War II in Germany when Harry Truman became President. As a native Missourian, I had great admiration for both Harry and Bess Truman. I felt the greatest respect for this man from Independence, Mo., who had risen to the Nation's highest office with the help of his wife at his side.

I think both Harry and Bess were lucky to have occupied the White House at the time that they did. They were there long before today's era of prying minicams and instant access news. That afforded the Trumans the opportunity to maintain some of their privacy. It also afforded Bess Truman the chance to do her Christmas shopping in Washington's department stores just 8 months after becoming First Lady and still not be recognized.

Bess Truman was a very shy and gracious lady. She served her country well as a First Lady to admire and respect. She maintained her own special degree of dignity, pride, and down-to-earth values. She was never really touched by the fever of importance that seems to run so rampant in Washington. For when Harry's term as President was over, she was quite content to return to her family home in Independence and go back to being just a private citizen.

Bess Truman was a model of basic, middle-American virtues that remained simple and untainted by the rough and tumble of Washington politics. I admire Bess Truman. I admire her for what she stood for, for what she believed in and for how she conducted herself as a public personality living a private life. She gave the world a model of dignity and grace, a model that will remain somehow forever empty because of her passing.

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Missouri for joining me in this tribute.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I feel honored to participate in this Special Order for former First Lady Bess Truman—a woman who showed us all the meaning of humility and dignity. Bess Truman did not seek the spotlight, nor the headlines. She did believe in her husband and family and always put their needs and wants above the demands of a Washington social life.

Bess Truman is mentioned prominently in Ken Hechler's new book entitled "Working With Truman: A Personal Memory of the President." My colleagues will remember Ken by his service in the House of Representatives from West Virginia from 1955 to 1977. I was privileged to serve with him as a member of the Committee on Science and Technology.

In his book, Ken tells a great deal of the human side of Mrs. Truman, her advice to the President behind the scenes, the fact that very few Presidential speeches were delivered without reading them and making suggestions the night before. Mrs. Truman was a great crowd pleaser on the many whistlestop trips which the President took. Even though she declined to make speeches she made it known that the Trumans were a very close-knit family.

Another aspect of Ken's book which interested me tells how both Mrs. Truman and Margaret could not wait to get out of Washington and back to their family home at 219 Delaware, in Independence. When Mrs. Truman and Margaret left Washington, President Truman became very lonely, spending hours on the telephone long-distance until either he could break away to go home to Independence, or persuade Mrs. Truman and Margaret to return to Washington.

Perhaps the biggest influence Mrs. Truman exerted was convincing President Truman not to run again in 1952. Here is how Ken Hechler describes the situation in his book:

> One afternoon at Key West, I had a long conversation with Mrs. Truman in the sitting room of the little White House. Mrs. Truman loves biographies and she paused in her reading of the autobiography of James A. Farley, Franklin Roosevelt's national political chairman to discuss Farley's adamant opposition to a third term for Roosevelt in 1940. She voiced her strong support for Farley's view as matter of sound national policy in a Republic and went on to describe her conviction that far too many people in public life refuse to admit when it is time to quit. Mrs. Truman commented with some feeling on the selfish "hangers-on" who are constantly importuning public officials to stay in office one more term so that these self-seekers can continue to bask in the glories of the boss. I came away from that conversation with the feeling that Mrs. Truman was a major force in convincing the President to stick to his decision to retire in 1952.

Harry Truman first met Bess Wallace when he was 6 years old and they were attending the same Sunday school class. He always referred to her as "my school girl sweetheart," adding that, "I have never had another, and will never have another." As First Lady, she declined to hold news conferences despite the pressures of reporters accustomed to Eleanor Roosevelt who frequently took stances on public issues. The Nation will long remember the quiet dignity with which she performed the duties of First Lady. She carried them out faithfully.

Mr. WINN. Mr. Speaker, I thank the gentleman I appreciate the gentleman asking for this special order honoring Bess Truman.

□ 2000

Mr. SKELTON. Mr. Speaker, I appreciate the words of the gentleman from Kansas (Mr. WINN) so much.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding, and I do thank the gentleman from Missouri (Mr. SKELTON) for the opportunity of saying a few words about the highly literate, lively, and lovely Bess Truman, who had such a delicious sense of humor and who was also a model for all political wives.

Mrs. Truman believed so strongly in her duties as a political wife that she would encourage all others to be able to extend themselves into the life of Washington and into the lives of their husbands' districts. She set an example by attending not only all of the functions in which the Washington wives were in charge but taking her precious time as First Lady to go at least 30 to 45 minutes ahead of schedule so she could thank the various chairmen, comment on the decorations, and tell them all once again what good work they were doing not only for the city and for the country but for her husband.

She was a perfect political wife. All of us at that time had two homes that we had to take care of, and we were always going back and forth and trying so diligently to make an attractive place in which to live and in which to have our husbands and constituents entertained.

When Mrs. Truman went to the White House, she not only had to take over the White House but discovered soon after she was there that the White House was tumbling down around them, so she had to live through one of those dreadful wifely chores of having her entire home done over while she was the First Lady. She moved with grace and charm into Blair-Lee House and kept up the tradition of entertaining that this country is very famous for.

In every aspect of her life as a political wife, Bess Truman was a real star. I think that the best thing that she did for all of the political wives was to give us a sense that you could become such a strong and good family within your own home that your husband could go forth and withstand any kind of pressure, and that the country would be well served because of it.

The happiness and the joie de vivre that the Trumans had among the three of them, the President, Mrs. Truman, and Margaret, was something that all the world admired, and it was a source of inspiration and great fun to all the other congressional wives.

So, Mr. Speaker, I am very pleased to give her a tribute as a perfect congressional and Presidential wife and to thank her for everything she did for the rest of us.

I thank the gentleman from Missouri (Mr. SKELTON) for this opportunity to say these words.

Mr. SKELTON. Mr. Speaker, I think the gentlewoman from Louisiana (Mrs. BOGGS) for her very gracious words concerning Mrs. Truman, she having filled that role so ably in years past, as I know so well. Those who read the RECORD in future years we make this evening will find that your words have added meaning, and I do appreciate what you said about the former First Lady, Mrs. Truman.

Mr. Speaker, we have heard a number of Members of this body join me in paying tribute to Bess Truman. She was a lovely lady, she was a remarkable person. I am pleased to say that she was my constituent for almost 6 years.

There was a time when I personally appreciated her words of encouragement. She was always there and she was an inspiration not only to me but to all those who met her and to so many who did not but who knew what a grand person she was.

We will miss her. We will miss her presence. We express our sincere sympathy to her very lovely daughter, Margaret Truman Daniel. I know that she goes with the memory that her mother fulfilled the highest calling of any lady in our land. She was a wonderful wife, a loving helpmate, and an inspirational wife of an outstanding leader.

● Mr. BAILEY of Missouri. Mr. Speaker, this Nation is greater because Bess Wallace Truman lived. We are poorer that she no longer lives among us.

We Missourians are particularly proud that she was the product of our soil, the product of our world, the product of that which is best about America.

Born in Independence, February 13, 1885, she gave Missouri and America almost a century of unswerving support of those qualities we deem best in America.

Married June 28, 1919, to Harry S Truman, she was not only one of our Nation's greatest First Ladies but also the mother of another great citizen, her daughter, Mary Margaret, now Mrs. E. Clifton Daniel, Jr.

Whatever she believed in, she supported with all her heart, with all her energies, with all her faith. Through a lifetime, no one ever questioned her loyalty and love of country and state, her support for her husband, her love for her daughter and grandchildren.

Proud, too, she was of being a Democrat and an Episcopalian. Proudest most, I think, that she was a Missourian.

Hence, it is with unusual pride and great affection that I today join my colleagues in commemorating the life and memorializing the death of a great woman, Bess Wallace Truman, wife of our late President Harry S. Truman.●

● Mr. BOLAND. Mr. Speaker, I want to thank the gentleman from Missouri (Mr. SKELTON) for reserving this time to allow us to pay tribute to former First Lady Bess Truman. Hers was a life worthy of admiration and respect, and I believe that her husband would have very much appreciated the House of Representatives pausing in its business to acknowledge the contributions she made to our country.

President Truman used to say that Mrs. Truman was his "full partner." He relied on the strength of her character and he valued her advice and her opinions. She discharged the considerable duties of First Lady with grace and dignity and I believe that the American people loved her because she exemplified the values with which they most closely identified. She was very much her own person and had a very strong sense of who she was. Devoted to her husband and her daughter, she never lost sight of the importance of her family and never allowed the demands of office to interfere with her responsibilities to them. The sense of stability which she exuded was needed and welcome in the years immediately following World War II.

Mrs. Truman wanted nothing more than to return with her husband to Independence after their term in the White House was over. She was content in the knowledge that they had done the very best they could for the country that had placed its trust in them. I believe that that is a judgment in which history will concur.●

● Mr. MAZZOLI. Mr. Speaker, I, too, would like to pay tribute to one of our country's First Ladies whose death has been a loss to us all.

Bess Truman was loved and respected by the American people as the devoted wife and companion of the President. She was a strong independent woman whose warmth and charm graced the Truman administration.

Mrs. Truman lived a long and full life, and I honor this great woman for her service to the American people.●

● Mr. ANDERSON. Mr. Speaker, although her death saddens us all, Bess Truman lived a rich and fascinating life. At one time, Mrs. Truman played a very important role in our Government, and with her death there passed away a great era in American history. I had the privilege of meeting her and her husband, the late President Truman, both of whom I personally admired. All who knew her can say that Mrs. Truman was a great woman and a great First Lady.

Bess Truman stood quietly but strongly behind her husband, President Harry S. Truman, during his historic years in the White House. Upon the death of President Franklin D.

Roosevelt in 1945, Bess Truman suddenly found herself having to assume a far more public role than she was used to. Although First Lady Bess Truman's reserved manner and style were quite a change from the superactive Eleanor Roosevelt, she contributed her own unique presence to American society.

Mrs. Truman was thoughtful and generous, never happy unless doing something for others, such as visiting veterans and patients from Walter Reed Hospital and the Bethesda Naval Medical Center. She was constantly on the go, dropping in at several luncheons and receptions in a day while managing her White House domain. Although reserved, and shy in large public gatherings, Bess Truman was good-natured and had a very warm and winning manner and a sharp, dry sense of humor. Mrs. Truman's great love for baseball was famous, and she attended the games of the Washington Senators whenever she could.

Bess Truman's complementary nature was a great asset to her husband, who frequently included her in the closed-door sessions of advisory groups, particularly during campaigns. President Truman said that he discussed every decision with his wife and referred to her as "a full partner in all my transactions—politically and otherwise." Mrs. Truman's traditional American virtues were a source of strength to both the President and the Nation. Even if she was never completely able to curb his language, her deeply rooted sense of what was fitting and proper influenced her husband. No matter what she was doing, Bess Truman was always a lady. Her spirit made the White House great, and made her a great woman.

My wife, Lee, and I would like to take this time to offer our deepest condolences to her daughter Margaret and her family. We are grateful for the many years that Bess Truman had with us, and for her special contribution to our lives.●

● Mr. CLAY. Mr. Speaker, I am honored to pay tribute today to Elizabeth Wallace Truman, a person of much affection and respect for those with a memory of postwar America. In the years following the turbulence of the Depression and World War II, Americans found reassurance and inspiration in the virtues Mrs. Truman personified. She was a warm, modest, friendly, and home-loving woman.

Her family always came first. She described the role of First Lady as requiring that a wife "sit beside her husband, be silent and be sure her hat is on straight." Actually Mrs. Truman took a keen interest in her husband's daily problems and he respected her judgment. He referred to her as his chief adviser and a full partner in all his transactions.

Mrs. Truman had a sense of duty, dignity, and quiet pride. She was always correct and gracious about everything she did in the White House. She remarked that the qualities most necessary for the wife of a President were "good health and a strong sense of humor." Mrs. Truman possessed these qualities and she served the country and her husband well.

In each of our families there is a woman who resembles Bess Truman and who embodies these same down-to-earth virtues. She reminds us of someone we love. We mourn her death not so much for her public life, but for what we knew of her role as a wife, a mother, and the model for so many women of her generation. Bess Truman was a great American woman and she will be missed greatly.●

● Mr. BINGHAM. Mr. Speaker, I appreciate the opportunity of saying a few words about a great American.

During the years of Harry Truman's Presidency, I was often impressed with the qualities of the lady he called "boss," his wife Bess. She had a quiet dignity and a kind of no-nonsense serenity that was apparent to all. It was clear that the President relied heavily on her judgment and her sense of perspective.

I had the pleasure and privilege of meeting Mrs. Truman on several occasions. On one of these she was a dais guest at a large luncheon at the Shoreham Hotel which I had been asked to address. She had to leave before my speech, which of course I quite understood. That very afternoon Mrs. Truman sent me a handwritten note explaining why she had had to go, expressing her regret not to have heard my talk, and apologizing for the apparent discourtesy. I never got over the fact that she took the time and trouble to do this.

Bess Truman was truly one of the most gracious ladies of the 20th century.

My wife and I join in extending to the members of her family our deep sympathy on their loss, a loss which we all share.●

● Mr. ZABLOCKI. Mr. Speaker, it is indeed a rare privilege to join my colleagues in honoring the memory of a truly great first lady of this land, the late Bess Truman. To those like myself, who served in this body during the Truman administration, Mrs. Truman will always be remenbered with particular warmth, affection, and high esteem.

It is no secret that Mrs. Truman did not seek or relish living at 1600 Pennsylvania Avenue, but characteristically, she did what she perceived to be her duty as First Lady with graciousness and a high sense of personal dedication. Her first loyalty was clearly to her husband, and she provided great comfort and moral support to the President of the United States during a very critical and challenging period in our Nation's history.

Perhaps her most striking quality was the utter lack of pretension which characterized all of her official actions and personal relationships. She did not attempt to emulate anyone but herself, and the image she projected to the world at large was one of quiet dignity and practical good sense. To paraphrase the words of Kipling, she could "walk with kings—nor lose the common touch"—and in the process, she managed to represent the finest attributes of the American people.

Mrs. Truman had a long, rich, active, and satisfying life, and she was supported to the end by the unwavering affection she received from her family, her friends, and her many admirers. As one of the latter, I am pleased to have this opportunity to pay tribute to this great lady and join in the national mourning which inevitably accompanies her loss.●

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. BREAUX). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield to my colleague from Missouri (Mr. YOUNG).

REEXAMINATION OF ROMANIA'S MFN STATUS IS CALLED FOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. HOLT) is recognized for 60 minutes.

● Mrs. HOLT. Mr. Speaker, between November 5 and 7, 17 Hungarian intellectuals in Transylvania, the Hungarian-inhabited province of Romania, were arrested. The major "defendants," nationally famous poet Geza Szoecs, philosopher A. Ara Kovacs and Prof. (Mrs.) Karoly Toth were subjected to violence. Szoecs is still incommunicado, either in a secret police jail or in hiding; the other three were warned not to leave town as they will be charged with treason. We have no reliable information about the fate of the other 13 intellectuals.

Today I rise to condemn the charges against these leaders of the freedom-loving Hungarian intellectuals in Romania who want to retain their Hungarian cultural traditions and the freedom to express themselves without governmental censorship. Their "crime" was to publish a lithographed monthly called Ellenpontok (Counterpoints) since November 1981, a literary and philosophical monthly that had little to do with day-to-day politics.

However, I believe that in addition, the Romanian authorities suspected them to be the signers of a recent memorandum on the complaints of the Hungarian minority in Romania which was smuggled out to Vienna in November and presented to Chancellor Bruno Kreisky on November 29, 1982 for transmittal to the Madrid Conference on Security and Cooperation in Europe.

Their demands are modest indeed and would have no problem even with the Constitution of the Socialist Republic of Romania. They only want the opening of Hungarian language kindergartens and special education classes, equal use of the Hungarian language in public and before the authorities where the Hungarians form a significant minority or the majority of the population, and equal access to professional positions. They are also calling for self-administration of the Hungarian-majority regions in Transylvania and condemn the existing practice of forcibly settling Romanians into the purely Hungarian villages, towns and cities of Transylvania. Most devastatingly, they add that the Romanian authorities should not regard the Hungarian intellectuals with suspicion just because they are Hungarian. Mr. Speaker, today I am joining with these brave people striking a blow for freedom and cultural rights of their ethnic groups at grave personal jeopardy to themselves. I also appeal to my colleagues to support Representative RITTER's letter to President Reagan calling for protests and for a reexamination of Romania's most favored nation status next year if these persecutions, arbitrary arrests and conscious discrimination against the 2.5 million Hungarians of Transylvania do not cease or abate.

I congratulate the American-Hungarian Federation, its president, the Right Reverend Tibor Domotor; its executive committee chairman, Mr. Imre Beke, and its secretary of international relation, Dr. Z. Michael Szaz, for their strong and persistent efforts to help their brethren in Communist Romania. They have written to President Reagan and to Ambassador Max Kampelmann, the chairman of the U.S. delegation to the Madrid Conference on the Lesinki Accords, to protest the Romanian treatment of its Hungarian minority.

At this point, Mr. Speaker, I would submit for the RECORD the following article from the Vienna Arbeiter-Zeitung:

[Vienna Arbeiter-Zeitung in German Nov. 26, 1982]

ROMANIZATION OF HUNGARIANS IN TRANSYLVANIA SEEN

(Article by G.H.O.: "A Wave of Arrests Within the Hungarian Minority")

VIENNA (AZ).—At the beginning of November the Romanian authorities detained several Hungarian intellectuals in Transylvania. Among them was the well-known poet Geza Szocs. This was reported by Hungarian democratic opposition circles in Budapest. For over 2 weeks the fate of Szocs has been unknown. Several detailed people were allegedly maltreated.

This is the latest chapter so far in a conflict of nationalities that has been smoldering for a long time. A mionority of 2 million people lives in Romania, a minority which is increasingly defending itself against the stepped-up Romanization policy of the Ceausescu regime. The present wave of detentions is aimed at those Hungarian intellectuals who are charged with being connected with the underground paper Ellenpontok (Counterpoint) which has been published in Hungarian since the beginning of the year in Klausenburg. Its aim is to defend the minority rights of Hungarians in Romania.

In the last issue—the eight published so far—Ellenpontok published a memorandum to the Helsinki follow-up meeting in Madrid: "The Romanization of Transylvania and suppression of our culture is being pursued as never before. Romanians are being settled in primarily or exclusively Hungarian areas. The Hungarian schools are systematically reduced, the publication of our books and journals is curbed more and more. Our language is excluded from public life."

The subject of the suppression of the Hungarian minority in Romania is the top subject in Hungary today, not in the Government in Budapest or in the official media, which traditionally act carefully, but in opoposition circles.

In an article which has now come to the West and which is directed above all to European social democracy, the Hungarian philosopher Gaspar Miklos Tamas (34), who comes from Transylvania, warns against a general underestimation of the national contradictions in Eastern Europe. The philosopher, who calls himself a liberal socialist, thinks that the national disputes in Eastern Europe "are not a bit less violent than those of their predecessors in the 1920's—for the present they are only covered and unofficial." Tamas sees these national contradictions as a threat for peace in Europe. He demands that: both the Hungarian Government and Western Europe should pay more attention to the problem of the Hungarian minority in Romania. In the article Tamas refers to a historical parallel: The nationalist Princip did not kill Archduke Franz Ferdinand with the most modern Krupp Cannon, but with a shabby gun. In the unfriendly and silent concrete high-rises of the East European settlements many such Princips are waiting . . .".●

● Mr. DWYER. Mr. Speaker, recent events in Romania have caused justified alarm among the Hungarian minority there as they remain steadfast in their efforts to assert their fundamental rights but face relentless, unjust persecution as a result.

The recent arrest of several Hungarian intellectuals by the Romanian Government symbolizes the gravity of the situation, as Romanian authorities continue to deprive them of their human and self-determination rights.

The 1947 Peace Treaty compelled Romania to guarantee the human rights of the citizens of northern Transylvania, but that promise has been repeatedly broken.

For more than two decades, Romanian pressures against the Hungarians of Transylvania have been unrelenting, including the complete suppression of Hungarian social, youth, and educational activities, destruction of the Hungarian language schools and suppression of the internal independence of Hungarian churches.

The Hungarians in Romania, quite rightly, have requested by memorandum, that the cultural autonomy promised them by law be granted to them.

The fate of these brave compatriots, their ethnic survival, and their civil and human rights must be of deepest concern. The U.S. Government should support a policy aimed at stopping this "Romanization" which threatens the existence of 2 million Hungarians. To do so would be in harmony with our own ideals of liberty, self-determination, and human rights.●

A TRIBUTE TO HON. JIM JEFFRIES ON HIS DEPARTURE FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. WINN) is recognized for 60 minutes.

Mr. WINN. Mr. Speaker, when JIM JEFFRIES retires from the House of Representatives, we will be losing one of the most principled and dedicated Members of Congress. JIM is one of those rare persons who says what he means and means what he says and I have always admired him for that. His commitment to sound conservative values and policies is very difficult to match on Capitol Hill.

JIM always stood firm to popular political pressure and voted the way his conscience and constituency in Kansas dictated. Special interests are not big on JIM's list of priorities but the "little man" in the Second District of Kansas is. He was constantly fighting for the people's best interests both on the floor of the House and in committee where he served with distinction.

JIM's work on the Public Works and Transportation and the Veterans' Affairs Committees is well regarded. I know he had a special interest in the well-being of our country's war veterans and his service on the committee is an example of JIM JEFFRIES putting words into action. Generally speaking, JIM takes a fierce pride in the United States of America and does not believe in being embarrassed to praise this great country of ours or the men and women who fought for it.

When President Reagan was elected in 1980, JIM was like many of the rest of us who believed this country needed a change in direction. JIM's voting record is very indicative of his loyal support of the President—even when

it was not popular to vote with Mr. Reagan. JIM JEFFRIES has gone the extra mile many times for the President and even voted against the President when he believed, as I did, the President was abandoning a fundamental piece of his philosophy in the $98.6 billion tax hike passed earlier this year.

I think one word strongly represents JIM JEFFRIES' tenure in Congress. That word is "integrity"—something all too often missing from all aspects of society. JIM believes in it and he acts it. He believes integrity is an element of a Congressman's personality that his constituents will always respect despite any issue disagreements. JIM's integrity always reaffirmed my faith in the institution of Congress and this country as a whole and I believe his strong character positively affected me as well as many other of our colleagues in the House.

I hope JIM remains active in the political process. He is a strong asset to it.

I would like to conclude my remarks about my Kansas colleague by pointing out what a strong family man JIM is. He and his lovely wife Barbara are a fine example to our younger generation of a sound and loving marriage. I know JIM has always believed he would not be where he is today without the support and advice of Barbara and their three children. JIM believes families are important and I hope he is able to spend more time with his family now that he is away from public life.

JIM JEFFRIES has enriched all of our lives here in the House and I wish him nothing but the best in the future.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. WINN. I am pleased to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I would like to commend the gentleman (Mr. WINN) for saying these words about our colleague, the gentleman from Kansas (Mr. JEFFRIES), who is retiring.

I have had occasion to know him and to be his friend. I have had occasions to have the opportunity to share his warmth and his friendship, and I also know of that sense of duty and that sense of patriotism to which the gentleman referred so ably.

I well recall the deep interest the gentleman from Kansas (Mr. JEFFRIES) took in the military affairs of our country. On one occasion we were on an aircraft carrier together, and he had an opportunity to see firsthand how the young men of our country serve and defend this land.

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The deep interest and affection which he showed those young men for their sense of duty and encouragement that he brought to them at that time is something we will remember.

I again compliment the gentleman from Kansas for saying these fine words about a fine American.

Mr. WINN. I thank the gentleman from Missouri for those fine words.

Just a few minutes ago before I took the well the gentleman from Kansas' Second District said he had had the privilege and pleasure of touring several of the naval bases with the gentleman from Missouri.

● Mr. ROBERTS of Kansas. Mr. Speaker we have long recognized and honored many types of courage: physical courage under fire, the moral courage of a dilemma, and political courage in an age of expediency. Today, we pay tribute to a retiring colleague whose career in this Congress also is marked with courage. JIM JEFFRIES of Kansas has maintained the courage of his convictions in representing the people of the Second District. In seeking the office 4 years ago, Mr. JEFFRIES clearly outlined to folks in the Second District his beliefs and his philosophy and promised to stick by his ideals on their behalf. He carried out that promise, often under duress and sometimes in spite of the popular media's perception of what his constituents "really wanted." Because he had given his word, he was little swayed either by media criticism or by partisan debate.

As we all know, Mr. Speaker, maintaining such a clear course is often difficult and lonely in an age of instant analysis and sharply shifting moods of public opinion that is sparked by such analysis.

It has been a privilege for me to serve in this Congress with my colleague from Kansas. His voting record clearly reflects a determination to stand solidly on his convictions, which were arrived at honestly and in the spirit of serving his district. In doing so, he accomplished a great deal for his district and set the stage for further accomplishments in the longer term.

From time to time we all need to be reminded that our Founding Fathers envisioned a Congress composed of Representatives responsive to the people and with the courage to honestly and steadfastly serve them. JIM JEFFRIES has done that job well. I join in wishing him well and saying that his presence will be missed as one of our colleagues here in Congress.●

● Mr. WHITTAKER. Mr. Speaker, I thank my distinguished colleague and fellow Representative from Kansas, Mr. WINN, for reserving this time to honor our colleague and friend—JIM JEFFRIES.

JIM and I came to Congress together in 1978. JIM was the new Representative from the Second District of Kansas and I was the new Representative from the Fifth District. At that time, I must admit that I had only met and visited with JIM on a few occasions—but over the last 4 years, I have come to know JIM very well and am honored to call him my friend.

During his time in Congress, JIM has kept faith with his principles. Never did he waiver from his principles, or take the easy road out by dodging an issue.

JIM also provided and established an outstanding record of service to his constituents. I am not aware of any request too great, or any too small, where JIM would not personally intervene to help resolve the problem for the folks back home.

I know that not only I, but the people of Kansas and the Nation, will miss JIM JEFFRIES' honesty, fairness, and energetic work in the future. I know all join in wishing JIM and his wife, Barb, the very best in the future.●

● Mr. ROE. Mr. Speaker, I take great pleasure today in rising to join my colleagues in a well-deserved salute to my good friend JIM JEFFRIES, the highly able Representative of the Second Congressional District of Kansas.

JIM has served the people of his district, the State of Kansas, and the Nation with distinction and dedication. The name JIM JEFFRIES has become synonymous with honesty and great integrity.

I have had the pleasure of serving with JIM on the Public Works Committee. As a member of the Water Resources Subcommittee which I chair, JIM has shown himself to be totally dedicated to the Nation's water development needs.

We will certainly miss his expertise and guidance as we tackle the Nation's water resource problems in the years ahead.●

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to honor a good friend and outstanding colleague, JIM JEFFRIES.

Since he came to the House in the 96th Congress, JIM JEFFRIES has been one of the most hard-working, diligent, and capable Members of this body. His reputation for looking out for the interests of the taxpayer and for actively working to reduce the waste, fraud, abuse, and mismanagement in our Government is widely known and admired by his colleagues. The taxpayers of this country will be losing a tremendous spokesman in JIM JEFFRIES when he leaves the House at the end of this session.

Mr. JEFFRIES has also distinguished himself as an active and effective legislator during his 4 years of service. His work on the Veterans' Affairs Committee and the Public Works and Transportation Committee is highly respected by those who serve with him on these committees. His concern for the military strength of our Nation is evi-

denced by his activity on the House Task Force on Defense. He has also been outspoken on the benefits to our country, in terms of jobs and technological advancement, of a sound space program. As a member of the Congressional Space Caucus, he has worked for the development of a policy to keep America first in space.

JIM JEFFRIES will be truly missed by those of us who know him and have served with him in the House. His excellent service to his constituents, and his total dedication to the welfare of our country will long be remembered. I want to wish my good colleague the very best in all his future endeavors.●

● Mr. MONTGOMERY. Mr. Speaker, it is with mixed emotions that I join this special order on the gentleman from Kansas, JIM JEFFRIES. After serving two terms in this Chamber, he had decided to return to his home State. I am happy to join in this tribute, but the fact that he is leaving the House of Representatives is a sad one.

I have come to know JIM through our service on the Veterans' Affairs Committee. He has been a most valuable member of the Education, Training, and Employment Subcommittee, as well as the Oversight and Investigations Committee. JIM was always well informed on committee matters and he has been a true friend of this Nation's veterans. I know he also has served very diligently on the Public Works and Transportation Committee.

After serving his country as a command gunner in World War II in the Army Air Corps, JIM returned to Kansas, where he gained experience in a wide range of enterprises, including grain and livestock farming, market research, and as an investment counselor. It was this dedication to business that promoted JIM to run for Congress to try and help reduce the tax and paperwork burden placed on small businesses across this Nation.

Throughout his two terms, JIM has been a great friend of small business and it is evidenced by the honors he has received. He has won the Guardian of Small Business Award from NFIB as well as the Watchdog of the Treasury Award from NAB.

JIM has served his Kansas constituents and the people of this country with distinction in this Chamber. He can be proud of his accomplishments here and I can say that we will, indeed, miss a man of his high integrity and experience when the 98th Congress convenes in January.●

● Mr. SAM B. HALL, JR. Mr. Speaker, after a very short time here in the House our good friend and colleague, JIM JEFFRIES, decided to retire. I wish that he would have made a decision to stay longer, because he had made a significant and lasting contribution to the work of the Congress.

JIM JEFFRIES originally ran for the House on a campaign pledge to fight excessive, unnecessary Government spending, and he remained true to that commitment. He has a reputation for consistency and integrity and is known for sticking to his guns. The people of his native State of Kansas have a reputation for independent thinking, and JIM JEFFRIES fits this coveted role.

It has certainly been an honor for me to be with JIM on the Veterans' Affairs Committee. He is a veteran and he understands the needs of our veterans. We have had mutual service on the Oversight and Investigations Subcommittee, and there is no question that JIM JEFFRIES fights for a better system of delivering essential services to the veteran population by the Veterans' Administration.

As a member of the Government Operations Committee, JIM has battled for regulatory reform and reducing the size of Government. He has been in the forefront of the struggle to maintain local control over education, and his very persuasive arguments against creation of the U.S. Department of Education were among the best I heard during consideration of legislation establishing the agency.

JIM JEFFRIES is an able, effective, and well-liked Member of this body. I have thoroughly enjoyed our all-too-brief period together, and I know that the future will continue to find him involved in the process of helping people. I wish him continued success.●

● Mr. CARMAN. Mr. Speaker, I rise today upon the occasion of the retirment of JIM JEFFRIES from Congress. JIM has worked hard for the people of Kansas and the Nation. He understands especially well the problems of farmers, and he has been a strong voice for those who are responsible for feeding all of us. I have enjoyed working with JIM and seeing his devotion to his constituents. I wish him all the best in his future endeavors.●

● Mr. McDONALD. Mr. Speaker, the House of Representatives is saying "goodbye" to many fine men this month, but among the finest men I know and one of those I will miss the most is JIM JEFFRIES of Kansas. He has been more than just a colleague who shares my philosophy of government. He has been a real friend on whom I could count. Several times, he has very selflessly come to my aid, and I appreciate it more than words can express. He and I have worked on so many projects together that I will possibly list his name automatically as a cosponsor or cosigner next year until I stop to think that he has gone.

He will be sorely missed by those of us who feel a strict interpretation of the Constitution should be our guide. He will be even more sorely missed as we continue to try and rebuild our Nation's defenses in the face of the enormous Soviet buildup. So, JIM, all I can say is please reconsider and run again for Congress. I would like to have you back, but all my best in anything you undertake.●

● Mr. SHUMWAY. Mr. Speaker, I would like to express my appreciation to LARRY WINN, PAT ROBERTS, and BOB WHITTAKER for requesting this special order to enable us to pay tribute to our friend and colleague, JIM JEFFRIES, as he prepares to return to private life.

JIM and I entered our congressional service together, and thus I will always have special memories of him. Being fellow freshmen, we learned the ground rules together, and that experience inevitably results in a unique friendship. Additionally, I have been privileged to know JIM through service on the Republican Study Committee and to admire his contributions as a member of the panel's executive committee.

He has always performed in an exemplary manner on behalf of the people of his district and the Nation, whether in committee or on the floor of the House. His background provides him with a sound understanding of business and free enterprise, and his actions in this House have reflected his dedication to free-enterprise principles. For that, I admire and respect him greatly.

JIM will certainly be missed by all of us who have been privileged to know and work with him. I know that he will continue to apply his abilities and concerns in the private sector, and I am confident that his career will be marked by achievement wherever he goes.

To JIM and to his family, I extend every best wish for a happy and prosperous future.●

● Mr. CAMPBELL. Mr. Speaker, I am honored today to take part in this special order for my friend and colleague, JIM JEFFRIES.

Since JIM JEFFRIES' election to the House in 1978, he has been an outspoken and stalwart member of the conservative movement in this body. He has been honored for his dedication to fiscally responsible ideals by being named the National Association of Businessmen's "Watchdog of the Treasury" and given the Distinguished Service Award by the Americans for Constitutional Action.

His appointment to the Reagan congressional advisory committees was further evidence of his ability to work hard for those concerned with the conservative movement. Furthermore, JIM JEFFRIES' dedication to a strong national defense has been exemplary.

The business community is losing a fearless defender with JIM JEFFRIES' retirement, and the Second District of Kansas is losing a capable and hard-working Representative. As his colleagues, we will miss him, and I wish JIM JEFFRIES and his family the best in their future endeavors.●

GENERAL LEAVE

Mr. WINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

PLOT TO SHIFT FORGERY LOSSES TO CONSUMERS REVEALED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, for over 200 years, it has been a rule of law that the person to whom a check is payable bears no loss if the endorsement is forged. The loss falls on the person or institution who dealt with the forger. Now, however, a committee dominated by banking lawyers is out to change this rule so that a consumer victim of check forgery would bear the first $50 of loss from his own pocket.

Under draft No. 8 of the new uniform payments code, a consumer would be liable for the first $50 arising from loss or theft of a check payable to him that was cashed by a forger. The new uniform payments code would hold consumers responsible if they obtain control over the check and it was subsequently lost or stolen from the consumer.

This is a radical change from the uniform commercial code in effect in all 50 States, which holds that anyone whose check is stolen and whose endorsement is forged has no liability for the loss. Under present law, the entire loss falls upon the person or institution who cashes the check for the forger.

Under the new uniform payments code, an elderly women who is mugged after taking her social security check from her mailbox would be out the first $50 if the thief forged her signature and cashed the check.

Many of our senior citizens can barely scrape by from month to month on their meager social security payments, yet insensitive lawyers seek to take millions from people where a couple of dollars may mean the difference between eating or going hungry.

Social security check forgery is no small matter. In 1981, the Social Security Administration referred 35,405 social security and 10,953 supplemental security income check forgery cases to the Secret Service. If each of the consumers in these 46,358 cases were held to the $50 liability, these recipients would be out over $2.3 million.

Social security checks are just the tip of the iceberg, however. According to Federal Bureau of Investigation estimates, about 30 million checks are forged in this country every year. An estimated loss of these forgeries to financial institutions and merchants is $4 billion. At $50 per check, it is possible that up to $3.5 billion of the $4 billion loss could be shifted to consumers.

This is truly a radical proposition. Not only is it a departure from longstanding and settled principles of law, but it undercuts sound banking practices. Bankers preach "know your endorser" to their tellers. Every check issued by the United States bears a warning to the person cashing the check to "require full identification and endorsement in your presence."

Current law encourages good banking practices by placing the risk of loss on those persons in the best position to stop forgery losses. No forgery can succeed unless the forger finds someone willing to give cash or merchandise for the forgery. The financial institution or merchant stands face to face with the forger and has the power to thwart the crime by saying no. If someone gives something of value to the forger, then it is only fair that they bear the consequences of their action.

The new uniform payments code is being drafted by the 3-4-8 Committee of the Permanent Editorial Board for the Uniform Commercial Code. The board works closely with the National Conference for Commissioners on Uniform State Laws, which works to have uniform laws adopted by the States.

The board and national conference have been most successful in pressing for the adoption of the uniform commercial code. The uniform commercial code has been adopted in all 50 States and governs all aspects of commercial transactions. The new uniform payments code would replace those sections of the uniform commercial code that govern the payment and handling of checks and drafts and the allocation of loss for forgeries and unauthorized payments.

The 3-4-8 committee, named for those sections of the uniform commercial code which govern checks and negotiable instruments, is dominated by lawyers with close ties to the banking industry. Of the 11 members of the committee, 7 are members of firms who represent banks. An eighth member is employed by a chain of department stores.

The law firm of the chairman of the 3-4-8 committee is the registered lobbyist for the Consumer Bankers Association. The law firms of three of the committee members represent either Citibank or its holding company, Citicorp. One member of the committee sits as a director on the board of European-American Bank, and two of his partners are directors of the Bank of New York and Marine Midland Bank. Other banks who are clients of the committee members' firms are First National Bank of Boston, Fidelity Bank, Philadelphia National Bank, Crocker National Bank, Manufacturers Hanover Trust Co., First National Bank of Atlanta, First National Bank of Chicago, Marine National Exchange Bank, Security Marine Bank, Capital Bank, and New England Merchants Bank.

There is no way that a committee dominated by banking lawyers can objectively rewrite our Nation's banking laws. The 3-4-8 committee simply does not adequately represent the interests of the elderly and the average citizen.

It should come as no surprise that the 3-4-8 committee discussion draft of the new uniform payments code states on its cover that "public disclosure is prohibited" and that the draft "should not be generally circulated * * * or its substance disclosed." Given the proposal it contains, this desire for secrecy is as understandable as its proposal is outrageous.

It may well be that the laws governing our Nation's banking system need some refinement. In the past decade, many changes have come about. Retail charge volume on bank cards has increased over sixfold in the past 10 years. Debit cards and automated teller machines have experienced explosive growth over the past 2 years, with the number of cards increasing by over 500 percent. Networks of shared terminals permit a customer of one bank to obtain money from an automated teller machine hundreds of miles from home. Check truncation, in which checks written by a bank customer are not returned, is growing at a geometric rate. Electronic deposits and telephone transfer of funds continue to grow.

All these factors are changing the nature of our Nation's banking system. Next year, the Consumer Affairs Subcommittee will extensively study these changes. However, there is one thing that I can assure you will not happen, and that is a shifting of forgery losses onto the backs of the innocent victims of crime.●

CORPORATE POWER IN THE MARKETPLACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, 2 weeks ago the Hoover Institute at Stanford held a 2-day conference honoring the 50th anniversary of the publication of "The Modern Corporation and Private Property" by Adolf A. Berle, Jr., and Gardiner C. Means.

Dr. Means has been kind enough to provide me with a condensed version of the paper which he gave at that conference. It is entitled "Corporate Power in the Marketplace" and it is

with a deep respect for this great figure in American economics that I commend the summary to my colleagues.

CORPORATE POWER IN THE MARKETPLACE

(By Gardiner C. Means)

(Prepared for the conference on The Modern Corporation and Private Property, Hoover Institution, Stanford, California, November 19-20, 1982, on the occasion of the 50th anniversary of the publication of Adolf A. Berle, Jr., and Gardiner C. Means's book, "The Modern Corporation and Private Property")

I have been asked to give you my present perception of the issues raised in our book on "The Modern Corporation" and, as an economist, I will focus on the second theme of this conference, the power of corporations. At the same time I will keep in mind the extent to which the separation of ownership and control increases that power. Also in speaking of corporate power in the marketplace, I want to make it clear that I am not concerned with monopoly power. Our book does not even list monopoly in the index. Rather I am concerned with the market power which arises naturally when there is active competition among a few large independent corporations and is reflected in the pricing discretion in the hands of individual competing enterprises. Also, the central aim of our book was not to give answers to the basic issues we raised but to prevent a realistic framework to replace the framework of the conventional picture of economic life so skillfully painted by Adam Smith in 1776, and which still provided the basic framework for the conventional wisdom fifty years ago.

I can summarize the paper on my present perception of our discussion of market power by first pointing out the basic change in the structure of the free market system which our book discusses. At the time we wrote, the prevailing economic wisdom centered on markets in which there were a large number of independent small competitors with no one producer having significant market power. But the gradual shift to corporate production so changed the market structure that a significant number of competitive markets represented competition among a few enterprises with individual firms having a measure of pricing discretion.

This gradual shift from market to administrative pricing had two profound effects. First, it gradually increased the productivity of both labor and capital so that the average level of living rose greatly over the years. Second, it undermined the ability of the free market system to maintain economic stability because competition among a few active competitors does not provide the necessary price flexibility.

By the time our book was published, the conventional wisdom had registered the great increase in potential productivity due to the corporation but it still clung to the view that the free market system would operate automatically to eliminate excessive unemployment of labor and capital. Yet at that time a significant part of the country's industrial plant was idle and a quarter of its labor force was unemployed. Clearly a new framework was needed within which to work out the economic issues and policies for that day.

As I now read what we said at that time, I continue to believe that the most important economic conclusion we reached is in the chapter on "Concentration of Economic Power" where we said in our fifth and final conclusion on "economic power":

"Competition has changed in character and the principles applicable to present conditions are radically different from those which apply when the dominant competing units are smaller and more numerous." (p.45)

And I fully agree with our final conclusion that the Modern Corporation has wrought such a change in the free market system that:

"New concepts must be forged and a new picture of economic relationships created." (p. 351)

In our book we provided the new framework when we showed that by 1930 roughly three quarters of the business wealth of this country was held by corporations; that practically half of this corporate wealth was controlled by the two hundred largest; that a substantial part of this wealth involved a separation between ownership and control; and that the free market system had shifted from one dominated by markets in which competition was among the many to a system compounded of such markets and markets in which competition was among the few, with significant market power in the hands of management.

PART II

When I turn from my present perception of what we said with respect to market power and consider the new concepts which grew directly out of this new framework, I have no hesitation in saying that far and away the most important new economic concepts were the concept of an "Administered Price" and the concept of "Administrative Competition." The first can be defined as a price set for a period of time and a series of transactions. The second is what I will call the non-classical form of competition in which there are so few independent competitors that individual competitors have a significant degree of pricing discretion and price setting becomes an active function of business administration.

What makes these two new concepts which grew out of our book important is that they alone are sufficient to explain not only why, in the 1930's, the automatic corrective of Classical Competition could not work, but also pointed to an alternative mechanism which could maintain high employment in a way consistent with the free market system of that time.

This problem and a solution were clearly brought out in a 1934 paper on "Price Inflexibility and the Requirements of a Stabilizing Monetary Policy," which I gave before a joint session of the American Statistical Association and the Econometric Society. There I first publicly introduced the concept of an administered price and gave extensive statistical evidence that there were two quite different types of competitive market, one in which prices changed frequently and were highly flexible and one in which prices changed infrequently and tended to be inflexible. This can also be seen in Chart I.

[Charts not printed in RECORD.]

As I look back on this 1934 analysis, I would now modify it in only two important respects. First, I would add Keynes's deficit spending to my monetary expansion as a possible but not a necessary way for government to expand aggregate demand when there is excessive unemployment. Second, I would point out the new kind of inflation which we have been experiencing over most of the period since 1955 and say that the 1934 analysis does not cover this new phenomenon.

In my paper for this conference I elaborate on the confusion of policy and the long period for recovery but in this summary I will only say that the period was one of great confusion in economic policy and the final process of recovery shown in my Chart II tended to confirm the 1934 analysis.

When I turn to the role of Corporate Power in the Marketplace during recent years, I find that the creeping increase in the role of Administrative Competition has passed a critical point in changing the structure of the free market system and suddenly brought us a new type of inflation with prices rising sharply in recession.

The conventional wisdom holds that any sustained inflation "always and everywhere comes from too much money chasing too few goods." Yet, if this were true it would mean that simultaneous inflation and recession would be impossible.

Yet in each of the four substantial recessions in the last dozen years, prices rose substantially while demand fell substantially. Most of the inflation in these four recessions represented not "too much money chasing too few goods" but "too little money chasing goods on well stocked shelves." Obviously, in these recessions, more prices by weight, were rising than falling. I have called this new type of inflation "Administrative Inflation" because it arises from the behavior of administered prices. Chart III shows that in the administrative inflation of the 1950's prices which rose were, in the main, prices in the concentrated industries.

Once the reality of simultaneous Inflation and Recession is recognized three major questions pose themselves: What makes it possible? Why did it come suddenly? And how can it be overcome within the framework of the free market system?

Here I will consider only four sources of inflation in recession. I will call them cases of "Perverse Pricing" in which a fall in demand leads a management to raise a price. They include: (1) Full-cost pricing; (2) a reduced risk of entry; (3) arbitrary wage increases; and (4) the expectation of inflation.

Full Cost Pricing takes various forms, most of which can produce Perverse Pricing. Each involves a fixed cost and a given profit target and when these have to be spread over a smaller production volume, the cost per unit goes up.

A second source of perverse pricing arises where competition is among a few and the risk of encouraging new entries to the industry is reduced by a fall in demand. The greater the idle capacity the less danger that a high profit target will attract new entrants.

The third possible source of perverse pricing can result from the arbitrary raising of wage rates. It is well recognized that increases in real productivity justify and increase in real wage rates. But there tends to be confusion over what is a legitimate wage increase in other circumstances such as a rise in living costs. For example, in a period of recovery the reflationary increases in flexible market prices as they rise into balance with administered prices in a recovery period would be a legitimate ground for a wage increase.

The fourth source of perverse pricing is a widespread expectation of inflation. It bears little relation to the classical "flight from money". In classical markets, the double transaction of a speculator expecting infla-

tion tends to cancel out. But where a firm has pricing discretion the expectation of inflation tends to be self-fulfilling.

There may well be other sources of perverse pricing, but the above are sufficient for present purposes.

Once one recognizes the fact that structural change has been gradually increasing the relative role of Administrative Markets, it is easy to see why the appearance of Administrative Inflation has been relatively sudden. So long as the balance between the two types of competitive market favored classical competition, it meant that, in recession, more prices would go down than would go up so that the price level as a whole would go down and the constructive program of monetary and fiscal measures already described could operate effectively. But once a critical point has been passed in this gradual structural change, the role of perverse pricing will have so greatly increased that more prices will go up than will go down in recession and we would have the new type of inflation with the level of prices rising in recession.

This critical turning point is a new conception and I will christen it the "Great Divide". It seems to have occurred without fanfare somewhere in the 1950s and it is well behind us at the present time. The passing of this Great Divide presents us with the basic problem of eliminating the new type of inflation in a way consistent with the free market system and the optimum use of resources.

Once the Great Divide has been passed, we are in unknown territory which has been little explored and are faced with two major dilemmas. First the monetary and fiscal measures which can be used to control aggregate demand when the economy is on the favorable side of the Great Divide cannot control the new kind of inflation and second the expectation of inflation tends to become self-fulfilling once the economy has passed the Divide.

The failure of monetary and fiscal measures is beginning to be recognized even by laymen. For example, a tight money policy which limits demand in the hope of controlling inflation can be expected not only to increase idle machines and workers but also raise prices. And an expansion in the money stock to stimulate demand will also stimulate both inflation and the self-fulfilling expectation of inflation.

As I see it, the basic source of this double dilemma is not the perverse pricing as such but only that structural change has carried the number of prices set perversely beyond the critical point. The big problem is to bring our economy back to the favorable side of the Divide.

In theory there are various ways by which this could be done. Mathematically, if enough big companies were pulverized the amount of perverse pricing could be reduced to the necessary extent but this would mean a great decline in efficiency. If enough prices were regulated by government, perverse pricing could be limited to the necessary extent but it would reduce the efficiency of the free market system.

A third possibility is to get a sufficient number of big corporations to change their methods of pricing in a constructive fashion. I think the third of these is the most promising to explore.

At first glance it might be thought that such a shift in the use of market power would be difficult to bring about without regulation. But there are conditions now existing which would facilitate such a shift, once the need for the shift is recognized. These conditions are discussed in my full paper under the following heads:

1. The Relative Newness of Administrative Inflation
2. Corporate Experience with Long-Run Target Pricing
3. The Self-Interest of Big Business
4. Corporate Power and Corporate Responsibility
5. The Existence of Flexible Foreign Exchange Rates

In the presence of these favorable conditions it seems not impossible to find ways to return to the favorable side of the Great Divide.

I am encouraged to think that the necessary change in business practices could be brought about when I recall the success of the Committee for Economic Development, a group of progressive business leaders, known as the CED, in altering the outlook of business at the close of World War II.

As the War drew toward a close, there was widespread expectation of a big recession similar to that which had followed other wars. Faced with this danger, the CED set out to alter the business attitudes which pointed to a recession. To bring about such a shift, it persuaded the Department of Commerce to make estimates, industry by industry, of the real production which would result if demand were that which would give full employment. These estimates were then published as "Markets After the War" and very widely distributed. Then CED representatives visited key industrialists to persuade them to be prepared for a much larger demand than they had envisaged. Largely as a result of the shift in business attitudes which this brought about business was ready to expand its peace-time capacity when peace arrived. The nation avoided a recession.

In the present situation, the needed shift in business attitudes is more complex but could be facilitated by the preparation of current estimates of "Markets at Full Employment" and a similar drive on the part of progressive business leaders to stimulate pricing practices that will contribute to the new type of inflation.

The estimates of "Markets at Full Employment" would be stated in real terms and to be most effective would need to be supplemented by a set of price and wage Guidelines which distinguish between price and wage setting that would generate perverse pricing and that which would not.

This summarizes my present perception of the central economic problems raised in our book. I must reiterate the conclusions of our book:

"Competition has changed in character and the principles applicable to present conditions are radically different from those which apply when the dominant competing units are smaller and more numerous"; and

"New concepts must be forged and a new picture of economic relationships created."

These words ring as urgently today as they did fifty years ago.●

JAPANESE, EUROPEAN PACT EXISTS IN TRADE WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 30 minutes.

Mr. GAYDOS. Mr. Speaker, tomorrow, December 16, 1982, there will be placed in the records of the United States full documentation that there exists a pact of economic aggression against the United States by our European and Japanese trading partners and allies.

It will not be placed there by the Government of the United States, which has a duty to be alert to such things.

It will be placed there by a group of American steelmakers, who had to ferret it out themselves, whose workers are being bled to death by this pact of aggression and the continuing trade war that is behind it.

This documentation will be filed with the Special Trade Representative of the United States as part of petition for relief from Japanese steel that has been traded in violation of our existing treaties with them and in willful disregard for the General Agreement on Tariffs and Trade.

Obtained from foreign sources, this documentation is to include evidence of talks and agreements dividing up the world steel market and limiting competition.

It will include a showing of government-to-government dealings, I am told, which makes it more than companies cartelizing.

The division of the world into what is called spheres of influence—a term of geopolitics and war—was along the following lines:

First, west of the Suez Canal, the Japanese honored prices set by the Europeans and they limited exports to that area; east of Suez, the Japanese held sway, setting prices and quotas the Europeans honored.

Second, there will be an allegation of formal restraints on price and quantity in the steel trade between Europe and Japan.

Mr. Speaker, they carved up the world like a big turkey, and the choicest piece of turkey meat, although not specifically named, but the only open market in the world, absorbed their excess production—took the steel that could not be fitted into the spheres.

In short, they made the United States a free fire zone in this secretly reached trade war accord of theirs; and as far as I know never mentioned us by name.

But the market is big and it is open and our governments always have been committed to honoring GATT, which they were not.

As Gen. Douglas MacArthur said, "wars are caused by undefended wealth."

This agreement is not unlike the Tripartite Pact of 1940 that preceded our participation in World War II.

In that accord, the Japanese and the Germans and the Italians promised each to come to the aid of the other in the event of attack by—and I quote from reference works on the subject—

"of attack by a power not already engaged in war."

The United States was not named in that pact either, but we were a primary subject of the agreement.

Striking in this fashion dovetails with the emerging theories of samurai economics as well as with the ideas of a European, Von Clausewitz, on war, that are being carried over into economics these days.

With this agreement, in their regard for GATT and other treaties, they have conscripted into service another European power thinker, Von Bismarck.

Of treaties, Von Bismarck said:

All treaties cease to be binding when they come into conflict with the struggle for existence.

They are struggling to keep their mills and factories running and their workers employed.

I understand that the petition will file this documentation in a manner that will keep it confidential; that is, it will be closed from public scrutiny. I am told the confidentiality is necessary to avoid disclosing the source.

That may be so.

But it is the duty of the Government of the United States under our law to determine its validity—to pursue it with vigor and with force.

We have not been forceful in trade matters thus far in our history. We have been weak. In fact, it was U.S. Government pressure that brought the negotiated settlement of the recent subsidy and dumping disputes with the Europeans before the International Trade Commission's formal ruling. This settlement allows continued access to this open market. A formal finding and the imposition of countervailing duties and tariffs probably would have shut them out altogether.

Furthermore, there is an allegation that the yen is officially manipulated to keep it undervalued as a way of promoting Japanese exports.

Despite the weakness of the yen, the House should know that the only big criminal indictments for steel dumping were returned last summer against a Japanese company. The company paid $11 million in fines and shut off further investigation.

Nevertheless, in responding to this petition the Government of the United States must follow the advice of the European, Von Clausewitz, who said:

Do not dread confrontation so much as to avoid it when attainment of a goal requires it.

The goal, Mr. Speaker, is nothing less than the survival of the industrial base in the long run.

My brief remarks tonight have been merely to put the House on notice of what will happen. I will follow up in detail later.

Meanwhile, the disclosure of this pact of economic aggression should stand as harsh notice that there is a trade war.

In my mind it is as inescapable a notice as was the December 7 attack on Pearl Habor.

It is time for the U.S. Government to face up to what Clausewitz calls the most important job of a leader—it is time to recognize what kind of war we are in; and time to be sure we are not taking it for, or wishing it to be, something it cannot be.

In short, Mr. Speaker, secret agreements and cartels and spheres of influence and dumping have nothing to do with free trade—nothing, no matter what some might wish.

But they have everything to do with trade war.

The 175,000 steelworkers who are laid off or are on short weeks will be watching.

The 12 million unemployed will be watching.

All they want is for Congress and the administration to give them a chance to fight back in the trade war—and to win it.

Now, Mr. Speaker, for the RECORD, I offer the remarks of the chairman of the American Iron and Steel Institute, Mr. David Roderick, in explaining the petition today in a press conference.

Mr. Roderick's remarks were as follows:

The American Iron and Steel Institute and eight individual steel companies will file tomorrow with the United States Trade Representative a petition asking the Government to take remedial action against an agreement between Japan and the European Coal and Steel Community which limits the exports of Japanese steel to Europe. In this petition, filed under Section 301 of the Trade Act of 1974, we assert that over the last decade the Japanese Government has entered into a series of agreements with the European Community which have imposed minimum prices or quotas or both on steel exported by Japan to the Community. The most recent of these agreements, so far as we are aware, is a minimum price and quota agreement entered into by Japan and the European Community in 1978. Pursuant to this agreement, the Japanese and European steel industries negotiated a broader market sharing scheme under which each side had its own sphere of influence. The European sphere of influence is west of Suez, and in this sphere the prices are set by the Europeans and honored by the Japanese. The Japanese also limit their exports to this region. The Japanese sphere of influence consists of the coastal markets in the Far East plus India and Pakistan. In this area, the market prices are established by the Japanese and followed by the Europeans. Also, European exports to the Japanese area are subject to quota limitations.

Although the Middle East, Eastern Europe and China are not subject to quota limitations, the Europeans and the Japanese have agreed that market prices in Eastern Europe are set by the Europeans whereas those in China are set by the Japanese. Compliance with this comprehensive market sharing scheme is monitored through an exchange of confidental price and volume information between the Japanese and the Europeans, and any significant deviation from the agreed prices or volumes is the subject of prompt consultations. Thus, the unvarnished truth is that the quantitative and price restraints imposed on Japanese shipments to the European Community under the 1978 agreement are an intregal part of a broader market sharing scheme and a continuation of quota arrangements between the Japanese and the European Community dating back a decade.

The petition alleges that the 1978 agreement between the Japanese and the European Community is in violation of Japan's most-favored-nation obligations to the United States under the GATT Treaty and under the Japan/US Treaty of Friendship, Commerce and Navigation. It also alleges that the 1978 agreement is discriminatory under both treaties and imposes a burden on United States commerce. Finally, we allege that the dominant position of the Japanese steel industry, which was originally attained through a program of governmental subsidization and protectionism, is being artifically maintained through an undervalued Yen in violation of the GATT Treaty.

We allege that each of these actions that I have mentioned on the part of the Japanese government violates Section 301 of the Trade Act of 1974 and that as a result the United States Government should take certain steps to grant relief to the domestic steel industry. The relief asked for is fourfold: first, reduced steel shipments to the United States from Japan by way of compensation for past harm; second, a phase-out of the agreement between Japan and the European Community; third, enforcement of Japan's most-favored-nation obligation to the United States; and fourth, the imposition of an import levy on Japanese steel to reflect the current undervaluation of the Yen.

You have already been given a summary of the petition, and the full text will be available to you tomorrow, so I will not attempt to give you further details now. I only wish to give you the background for this action.

This Section 301 petition is not a spur-of-the-moment reaction to a short-term problem with imports, nor is it a reaction to the difficult conditions in which the domestic industry finds itself during this recession. For 20 years, the American steel industry has been attempting to fight a growing volume of predatory steel imports, in violation of our trade laws.

The figures speak for themselves: In the decade of the 1950s, imports took a 2.3 percent share of the domestic market; in the 1960s, 9.3 percent; and in the 1970s, 15.3 percent. In 1981, that market penetration rose to a record high of 19.1 percent, and in the first 10 months of this year, 22.4 percent—indicating another all-time-high record for the full year 1982.

We assert now, as we have for 15 years and more, that this growth has come largely from the sale of dumped and subsidized steel in this market, and as a result of other discriminatory and predatory foreign practices. The United States has been the only major open market for steel in the world. As such, we have been targeted by every other major steel manufacturing country as the dumping-ground for surplus production, often coming from over-built and subsidized steel plants. These plants export to the U.S. market at almost any price, in order to maintain employment—at almost any cost

to their national treasuries, and with little regard for the injury caused to the American steel industry and its employees.

Dumping and subsidization by the EEC countries have been partially alleviated by arrangements reached earlier this year by our government. But many other countries also routinely sell subsidized and dumped steel in this market.

The arrangements reached between Japan and the EC over the past ten years are a somewhat different example of discriminatory foreign conduct, which have had the effect of protecting foreign production and employment and have victimized the American steel industry and its employees.

The cumulative effect of these unfair trading practices has been a major contribution to the unemployment among American steel workers—now approaching 50 percent—and to operation of our steel mills below 50 percent of capability for most of this year, the lowest since the Great Depression. In recent weeks the operating rate has been down almost to 30 percent.

This new "301" petition asks that the U.S. Government require the Japanese to reduce their shipments to the U.S. by almost one-third over a four-year period—while at the same time obtaining a gradual phase-out of the discriminatory agreement between Japan and the EC. It also asks that an import surcharge be put on Japanese steel imports to offset the undervaluation of the Yen.

We will continue to watch closely the marketing practices of all supplying countries, and will take whatever actions may be required to defend ourselves against unfair trade practices.

The unprecedented number of unfair trade cases filed this year has one central theme: Free trade must be a two-way street and it must be fair, fair as specified in international agreements and fair as provided by Congress in U.S. trade laws. Thus far it has been neither free nor fair. Success in these cases would result in a substantial reduction in steel tonnage imported, would represent a modest return to equity in steel trading relationships in the American market, and would produce more job opportunities for U.S. workers.

□ 2020

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TIME OF CHANGE AT THE CO-OP BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 10 minutes.

● Mr. ST GERMAIN. Mr. Speaker, this week, the news media has carried some information apparently released from an examination of the National Consumer Cooperative Bank.

As long as this information is being made public, it is important that the Bank's release of data be complete enough to reflect accurately the import of such documents as the Farm Credit Administration's examination report.

The report, in my judgment, is a serious matter for the Bank and one which requires decisive, quick, remedial action. I have informed the Bank's Board of Directors that it should make immediate corrections of the deficiencies noted by the FCA. I have received assurances from the Bank that remedial steps are being considered. At this stage promises outnumber definitive actions.

The material released to the press emphasizes the estimates of the ultimate losses from bad loans—2 percent of the title I portfolio and 27 percent of the title II portfolio.

While it had not been my plan to release the FCA report, I think it now becomes important to place these numbers in the context of the overall tone of the report. If the report is to be discussed, it is significant to note that nearly 25 percent of the portfolio is identified as nonperforming at the date of the examination. The number of classified loans was unacceptably high.

It is very true that the Congress did not give the Bank an easy set of assignments, and that it must face some situations that commercial banks are able and willing to ignore. However, it would be an extremely serious mistake if this rationale was used to cover deficiencies.

As the FCA report states:

Although the poor quality of the Bank's loan portfolio may have resulted partly from a business and lending philosophy deliberately formed with a greater tolerance for risk than was acceptable to conventional lenders, the causes more easily discerned by the examiners were deficiencies in organization and in the capabilities and performance of credit staff.

It is also true that the Bank was born under difficult circumstances and that it was forced to expend much of its energy to fend off the absurd vendetta of the Reagan administration in 1981. None of us should underestimate the extreme pressures placed on the Bank by its political enemies.

Nonetheless, the Bank must operate in a prudent and efficient manner. Clearly, it must if it is to carry out its mission and be able to raise funds in the marketplace. It must be structured and operated so that its "outreach" capabilities are brought into play and so that full potential of consumer cooperatives is realized.

Happily, the majority of the Bank's original capital is unimpaired. It is in a position to correct its earlier mistakes, to reorganize and to retain the confidence of the broad-based coalition which made the legislative effort a success.

At the moment, the Bank's president, Carol Greenwald, is on a sabbatical and her present contract with the Bank expires on January 31. For the past several months, the Bank has issued a number of limited and ambiguous statements concerning the status and plans for the chief executive officer. I would suggest to the Bank and its Board of Directors that there be an early and definitive public statement about the future plans for the most important position at the Bank. Anything less does a disservice to the institution and the cooperatives which own and support the Bank.

One of the items on this committee's agenda for the next Congress will be a full and open hearing on the National Consumer Cooperative Bank and the various examinations and studies now being carried out by the FCA and the General Accounting Office. We will be looking for the changes and corrections that truly suggest that the Bank understands its responsibility under its charter and that it is fully responsive to its shareholders and the consumer cooperative movement. I am certain that the Bank and its Board will understand that promises will carry much less weight with the committee than actions.●

EXPLANATION OF SIGNIFICANT PROVISIONS OF THE HALL-KINDNESS AMENDMENT TO H.R. 746 THE REGULATORY REFORM BILL

(Mr. SAM B. HALL, JR., asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAM B. HALL, JR. Mr. Speaker, the basic purposes of H.R. 746 are unchanged by any of the modifications made by these amendments. In short, the purpose of title I is to improve the planning and management of the process through which major rules; that is, regulations, are developed. The purposes of title II are to amend the current Administrative Procedure Act (APA) to improve the quality of all regulatory decisionmaking, to increase public involvement in the regulatory process, and to modify the provisions for judicial review of agency action. Therefore, except as set forth in this discussion and the section-by-section analysis that accompanies it, the report of the committee that was issued on February 25, 1982 (H. Rept. 97-435) continues to apply.

TITLE I

Section 621. Definitions

Section 621 sets forth definitions for purposes of new subchapters II, III, and IV of Chapter 6 of title 5.

New section 621(a)(2) and (3) define the terms "benefit" and "cost," respectively. These terms had been used without definition in the bill as reported by the Commit-

tee, and it seems useful to provide definitions.

Although the definitions of "benefit" and "cost" are quite broad—encompassing any direct or indirect beneficial (in the case of "benefit") or adverse (in the case of "cost") effect—it is not intended that agencies will have to identify all benefits and costs no matter how insignificant and attenuated they may be. The benefits and costs that are contemplated are those that are reasonably identifiable and of some significance.

The term "economic cost" in section 621(a)(4) is a subset of the term "cost" as defined in section 621(a)(3)—being limited to those costs that are "reasonably quantifiable in monetary terms." The term "economic costs" is not limited to costs that are financial in nature. It also includes health, safety, and environmental costs which are reasonably quantifiable in monetary terms. In addition, it should be emphasized that some indirect as well as direct costs may be quantifiable in monetary terms, thereby qualifying as "economic costs". For example, an indirect effect of a rule, such as a reduction in innovation or productivity or an increase in consumer prices, might be quantifiable in monetary terms with a reasonable degree of effort and accuracy. If so, such an indirect cost would be an "economic cost" within the meaning of section 621(a)(4).

Section 621(a)(5) sets forth the definition of "rule". The exemption for rules involving internal revenue laws is moved from this list of exemptions to section 621(b)(2)(A), so that such rules can be designated as major either by the agency or by the President. Also, the exemption for rules that repeal, withdraw, or otherwise modify rules promulgated before the effective date of this Act has been deleted because of the imprecision of the language of the exemption and because of a concern that any agency action qualifying as a major rule should be carefully analyzed.

Section 621(a)(6)(A), as redesignated, defines a "major rule" as a rule or group of closely related rules that the agency determines". . . imposes economic costs, which are likely to result in an annual impact on the economy of $100,000,000 or more." The economic costs to which this provision refers are the aggregate costs imposed by the rule that are reasonably quantifiable in monetary terms. A rule also may be "major" because it would have significant adverse effects or cause a substantial increase in costs that are not reasonably quantifiable in monetary terms. But a classification of "major" on these latter grounds could be made under section 621(a)(6)(B) rather than section 621(a)(6)(A).

It is important to emphasize that the reasonably quantifiable costs referred to in section 621(a)(6)(A) are to be computed on an aggregate basis, without any offsetting allowances for associated benefits of the rule. Benefits, of course, are important and must be identified and carefully analyzed in any regulatory analysis performed for a major rule. Thus, in deciding whether a rule qualifies as "major" under the $100 million test in the first place, the focus should be solely upon the gross costs that are reasonably quantifiable in monetary terms, without netting out any resulting benefits of the rule. On the other hand, if a rule, for example, reduces existing levels of environmental protection, that reduction in environmental protection would be a cost; though it may or may not be an "economic cost", depending upon whether it is reasonably quantifiable in monetary terms.

The modification to the definition of "major rule" deletes the separate category for rules that "will have a substantial impact on health, safety, or the environment" in light of the revision, described above, of the $100 million test. Under that test, rules which have an adverse impact on health, safety, or the environment which can be reasonably quanitfied in monetary terms and which exceed $100 million annually are major rules. In addition, either the agency or the President may designate as "major" any rules that have a substantial impact as defined in section 621(a)(6)(B).

Section 621(b)(1) requires the President to publish in the Federal Register a rule which he/she designates to be major. This publication must be accompanied by a succinct explanation of the basis for this designation. The President should make such a designation only when clearly justified since the designation of a rule as major imposes a burden on an agency's financial and personnel resources and may diminish the ability of an agency to carry out its other responsibilities. The bill prohibits the President from delegating his authority to make such a designation.

Section 621(b)(2) exempts certain rules from being major rules under the $100 million annual impact test of section 621(a)(6)(A). These rules are exempted because the analysis required of a major rule is inappropriate for these particular rules. Such rules could still be designated as "major" by an agency or the President under section 621(a)(6)(B).

Finally, it should be noted that the regulatory process affects a wide variety of matters. The proposed section 621(a)(6) which defines the term "major rule" is therefore of necessity framed in general terms, and its bare words could, it is recognized, be read to provide for hundreds of regulatory analyses. That is not the legislative intent. Rather, the point of section 621(a)(6) is to direct the agencies to allocate their resources to throughly analyze rules of truly major significance. The judgment expressed in section 621(a)(6) is that given the money and time that must be invested to conduct these analyses, it is only worthwhile to undertake them with regard to such rules. It should be noted also that the President is expected to use the authority stated in section 621(a)(6)(B) is a manner that does not place a disproportionate burden on any agency.

Section 622. Additional procedures for major rules

Section 622 directs agencies to complete certain procedures as part of the process of issuing major rules. While these procedures should result in information valuable to the agency in making its regulatory decisions, they do not change the substantive standards applicable to the agency's action under any other provision of law.

Sections 622(b) and (c) require an agency to issue certain material regarding each major rule. The material issued should be succinct but appropriately comprehensive to satisfy the particular requirement. However, there is no intent here to imply that the material issued under subsection (b) be as complete as that issued under subsection (c). The material issued pursuant to subsection (b) is intended to be a preliminary document, that is, a document that indicates the agency's thinking in issuing the notice of proposed rulemaking. Thus, it will probably be less conclusive and less extensive than that issued under subsection (c).

Section 622(b)(2) requires an agency to describe the reasonable alternatives to a proposed rule and the main elements of the rule that may accomplish the stated rulemaking objectives in a manner consistent with the applicable statutes. In any case where the proposed rule does not have lower economic costs—that is, costs that are reasonably quantifiable in monetary terms—than each of the reasonable alternatives, the agency is to identify the alternative having the lowest such costs. The method that may accomplish the stated objectives of the proposed rule, in a manner consistent with the applicable statutes, at the lowest economic cost should be one of the reasonable alternatives described under section 622(b)(2), unless the proposed rule itself is the method that has the lowest economic costs.

The phrase "may accomplish" rather than "will accomplish" was used in recognition of the fact that when an agency proposes a rule, it is unlikely to know with a high degree of certainty that the proposed rule or any one of the various alternatives will accomplish the stated objectives of the rulemaking. Consequently, in identifying and describing alternatives to the proposed rule, the agency should consider those alternatives that, at least at this preliminary stage, may reasonably be anticipated to accomplish the rulemaking objectives. A more well-informed and considered judgment on this point can be made by the agency when it takes final action in the rulemaking after analyzing the proposed rule and the various alternatives in light of the comments submitted by interested persons.

Section 622(b)(4) requires an agency to issue an analysis of the benefits and costs of the proposed rule and of each of the principal alternatives described in section 622(b)(2). In any case where the proposed rule does not have lower economic costs than each of the other alternatives described in section 622(b)(2), one of the principal alternatives analyzed under section 622(b)(4), must be the alternative to the proposed rule that has the lowest economic costs. Section 622(b)(4) also requires the agency to present a comparison of the cost effectiveness of the proposed rule and of each of the principal alternatives that it analyzes.

This provision is a reformulation of the comparable provision appearing in the bill reported by the Committee. The analysis of benefits and costs required by section 622(b)(4) is intended to provide the agency with information that will be of assistance in evaluating various possible approaches to achieving the rulemaking objectives. In order to maximize the usefulness of an agency's assessment of the benefits and costs of a proposed rule and the alternatives to the rule, it is desirable to quantify, as well as describe, the costs and benefits. However, there are both technical and practical limitations on this exercise in quantification.

For one thing, it may not be technically feasible to quantify certain costs and benefits. In some cases, particular costs of benefits may not lend themselves to quantification in any appropriate unit of measurement. In other cases, it may be feasible to quantify particular costs or benefits in some unit of measurement (relating, for example, to adverse effects that are incurred or avoided), but it may not be feasible to present a reasonable or responsible quantification of such costs or benefits in monetary terms, and section 622(b)(4) does not require the agency to do so.

In some instances, quantification in monetary terms or some other appropriate unit of measurement may be technically feasible; yet, practical considerations may be such that the effort to quantify particular costs or benefits probably should not be undertaken. For example, although technically feasible, quantification of particular costs or benefits may involve such an excessive expenditure of agency time and resources that it would seriously interfere with the discharge of the agency's overall public interest responsibilities as contemplated by Congress.

In other cases, quantifying particular costs or benefits might clearly be a wasted effort even though the expenditure of agency time and resources would not be particularly great in an absolute sense. For example, particular costs and benefits may clearly be insubstantial when compared to the overall costs and benefits of the rule. Quantifying such insubstantial costs or benefits almost certainly would not provide information that would be useful in evaluating the proposed rule and the various alternatives. Therefore, the agency would not be expected to quantify such costs and benefits under section 622(b)(4), even though the expense of doing so would not be particularly high.

In short, section 622(b)(4) contemplates that agencies will attempt to quantify costs and benefits, either in dollars or in the most appropriate unit of measurement other than dollars. But it recognizes that, in some cases, quantification of particular costs or benefits would be technically infeasible, or would unduly disrupt the discharge of agency responsibilities, or would provide information that would be only marginally useful in evaluating the various possible approaches to achieving the rulemaking objectives. Section 622(b)(4) does not require an agency to quantify particular costs and benefits in such cases.

Section 622(b)(6) requires agencies to identify any scientific, economic or other technical report or study upon which it has relied substantially or expects to rely substantially in the rulemaking. With respect to any such report or study that is scientific or economic in nature, the agency also must describe how it has evaluated or intends to evaluate the quality, reliability, accuracy, and relevance of the material.

This provision and the companion provision in section 622(c)(8), which applies to the materials issued in connection with the final rule, have been included in the bill in recognition of the fact that, in many instances, informal rulemaking for major rules has increasingly come to be dominated by complex scientific, economic, and other technical issues. In order to ventilate those issues in a useful manner, agencies ought to identify the scientific, economic, or other technical reports or studies upon which substantial reliance is being placed in the rulemaking, thereby allowing interested members of the public to focus on those studies.

To further facilitate this process and to help make it more likely that complex scientific and economic reports and studies are competently analyzed and evaluated and that the conclusions drawn from such studies and reports represent a valid basis for rulemaking activity, the agency must describe how it has evaluated or intends to evaluate (through peer review or otherwise) the quality, reliability, accuracy and relevance of any such report or study. This description should encompass not only the agency's evaluation of the information contained in the report or study, but also the agency's evaluation of any factual conclusions drawn from the report or study. While this subsection does not require an evaluation of such reports and studies, the judgement expressed in this section is that agency decision-making on questions involving complex scientific and economic issues ordinarily will be improved if such evaluations are made.

Section 622(c)(5) is restated to clarify its original intent: agencies are to analyze the extent to which the benefits of a rule justify its costs. If the benefits do not justify the costs, the agency is to give an explanation of why it adopted the rule. This provision does not set forth a new substantive standard under which the rule must be issued. Rather, it requires an agency to look at the relationship of the costs and the benefits of a major rule, to draw conclusions regarding that relationship, and to explain its rulemaking decision in light of those conclusions.

Section 622(c)(6) is modified in a way similar to section 621(c)(5). This section also in no way imposes a new substantive standard on agency decision-making. It simply requires an agency to explain how the rule attains its objectives, in a manner consistent with applicable statutes, with lower economic costs than the other alternatives analyzed pursuant to section 622(b)(4). If the rule does not do so, the agency is required to articulate its reason for selecting the rule rather than the lower cost alternative. Obviously, there will be many instances where the agency will choose an alternative which does not have the lowest economic costs. For example, the alternative rejected may have low economic costs (that is, costs which are reasonably quantifiable in monetary terms) but may also have very serious adverse effects which are not so quantifiable or greater benefits than the alternative that was rejected.

Section 622(c)(7), as originally contained in H.R. 746, is deleted from the bill. It required a summary of significant issues raised by the public in response to the materials issued under subsection (b) of section 622 and a summary of the agency's response to those issues. This subsection was deleted only because it was deemed unnecessary in light of section 553(c)(1) of title 5 as it is amended by this bill. That subsection requires that the statement of basis and purpose for major rules, as for all other rules, will include a response to significant issues raised in comments. To have required the agency to issue such information under subsection (c)(7) of section 622 as well would simply have been redundant.

Section 622(d), as designated in H.R. 746 as reported, has been deleted. This subsection had required any person who submitted comments on a major rule to include in those comments the information on which they were based. This requirement was adopted by the Committee so the agency and the interested public could more fully evaluate the validity of the claims and conclusions contained in comments. Removal of this section is not intended to reflect a lack of concern about the fact that some participants in rulemaking proceedings submit comments that contain no factual or other support for their conclusions. In fact, it is very important for those who submit comments to provide the information necessary for the agency and the public to evaluate the validity of those comments. However, a statutory requirement that participants do so might have created an inference that unsupported comments, such as anecdotal letters from the public regarding the physical discomfort resulting from air pollution, could not be considered by the agency. Therefore, while the provision did state the intent of the Committee that agencies carefully scrutinize the basis and conclusions of comments, the provision itself was deleted from the bill.

Section 622(d)(3) requires an agency to include in the rulemaking file required by section 553(f) (as established by this bill) a copy of the material issued pursuant to sections 622(b) and (c), and a copy of the transcript of any informal public hearing held pursuant to section 622(e). The provision also requires the agency to include in the file a copy of any scientific, economic or other technical report or study that the agency actually considered in connection with the rulemaking, if information in the report or study pertains directly to the rulemaking and was prepared by officers or employees of the agency or by a person working under contract with the agency.

It should be noted that the scientific, economic, and other technical reports or studies that are required to be placed in the rulemaking file under section 622(d)(3) are different from the scientific, economic, and other technical reports that the agency is required to identify pursuant to sections 622(b)(6) and 622(c)(8). The reports and studies that must be identified pursuant to these latter provisions are limited to those, from whatever source, on which the agency has relied or expects to rely substantially in the rulemaking. Section 622(d)(3), by contrast, requires the agency to include in the rulemaking file not only the studies on which the agency substantially relies, but also any other scientific, economic, or technical reports or studies that agency decisionmakers actually considered (even though not relied on) in the rulemaking, as long as the information in the report or study pertains directly to the rulemaking and was prepared by the agency personnel or under contract with the agency.

Section 612(e) requires an agency which proposes a major rule to provide an opportunity for oral presentation of views at informal public hearings. In those cases where the agency determines that other procedures would be inadequate for the resolution of significant issues of fact upon which the rule is based, the agency is also required to provide for cross-examination on those issues.

Section 622(e)(3) is modified to provide an explicit requirement that the agency regulate the course of the informal public hearings required by this subsection in order to ensure orderly and expeditious proceedings. As stated in the Committee report, this provision is not intended to turn informal rulemaking proceedings into formal rulemakings or adjudicatory hearings, and agencies are required to control the proceedings to avoid undue delay and dilatory tactics on the part of participants in the hearings. The amendment makes clear that where cross-examination is allowed, the agency may impose limitations on the time and scope of that cross-examination.

Section 622(e)(3)(C) provides that one of the means through which the agency may regulate the informal public hearings is through the designation of a representative to make oral presentations or engage in cross-examination on behalf of persons with a common interest in the rulemaking. It is expected that the agency will first allow persons with a common interest to select

their own representatives. The agency should only make the choice where such persons cannot agree. In a case when the agency must make the choice, it should seek to select the representative who will most effectively present the concerns of the persons being represented.

Section 622(f) permits an agency to delay complying with any requirement of section 622 if the agency finds, for good cause, that complying with such requirement before making the rule effective would be impracticable, unnecessary, or contrary to the public interest, and publishes a statement of such finding, along with a succinct explanation of the reasons therefor, in the Federal Register when it publishes the rule. If the rule for which compliance has been delayed pursuant to section 622(f) will, by its terms, cease to be effective within two years after its effective date, the agency need not comply with the requirement at all. In all other cases, section 622(f) requires the agency to comply with the requirements of section 622 as soon as reasonably practicable after promulgating the rule.

The "good cause" justification for delaying compliance with the requirements of section 622 is intended to carry the same meaning as it does in the "good cause" provision set forth in section 553 of title 5. Thus, there may be instances where complying with the requirements of section 622 before making a rule effective will be "impracticable" or "contrary to the public interest", for example, when delaying a rule might jeopardize airline safety. However, a situation may arise where an agency may be fully able to comply with the requirements of section 553 of title 5 prior to issuing the rule, but may have "good cause" for not complying with the additional requirements of section 622. It may then delay compliance only with section 622. But, as in the case of section 553(b)(2), agencies should not abuse their discretion in invoking the good cause exception under section 622(f).

Section 622(g) is a restatement of section 622(h) in the bill as reported by the Committee. As with the original provision, this subsection provides that the relevant authorizing statute remains the source of agency authority for rulemaking decisions; nothing in section 622 should be construed to override or change the prescriptions of those statutes. Thus, if a statute directs an agency to establish "just and reasonable rates", section 622 does not alter that mandate. It merely requires the agency to conduct the analysis required therein prior to prescribing the rule. Similarly, any procedural standards imposed by an authorizing statute or by the provisions of the Administrative Procedure Act continue to apply.

This does not mean however, that an agency's consideration of a proposed major rule will not be different after section 622 is enacted than it is at present. The basic objection of section 622 is to require agencies to subject their major rulemaking activities to a new type of analytical discipline. Section 622 imposes additional procedural requirements upon the regulatory process, with the aim of improving decision-making. It is quite possible that rules adopted after being subjected to this more rigorous analytical process may be different from rules that might have been adopted in the absence of such an analysis. But the fact that more careful analysis may result in a somewhat different rule (or even in no rule at all) does not imply that the standards applicable to the agency's action under other provisions of law have been changed.

Section 623. Judicial review

With certain exceptions set forth in sections 623 (b) and (c), section 623(a) precludes the courts from reviewing compliance or noncompliance with the requirements of subchapters II, III, or IV of chapter 6, or from compelling an agency to act under those requirements, or from holding a rule unlawful, setting it aside, or remanding it on the ground that the agency failed to comply with such requirements. In particular, this means that there will be no judicial review of whether any material issued pursuant to section 622 is sufficient to satisfy the requirements of that section. Therefore, this subsection precludes a court from considering any challenge to agency compliance with these provisions on the ground set forth in section 706(a)(2)(D), as redesignated by this bill, that is, that the agency failed to comply fully or in part with a "procedure required by law."

However, as this subsection makes clear, a court may consider material issued pursuant to section 622 in determining the validity of the rule when an action for judicial review of the rule is brought under any provision of law other than section 623. In the vast majority of cases, an action to review an agency rule is brought under chapters 83, 85, 133, 151, 157 or 158 of title 28 of the United States Code and under sections 701-706 of title 5, and/or under provisions of the enabling statute pursuant to which the agency acted. If an action for judicial review cannot be brought under those provisions or under some other applicable provision of law—for example, if the agency action at issue is committed to the agency's unreviewable discretion—section 623(a) does not authorize judicial review.

In any case where judicial review of agency is not so precluded and can appropriately be sought under other law, this provision makes clear that any material issued pursuant to section 622 may be considered by the court in determining the validity of the rule, to the extent such material is relevant. That is, the court may consider this material in the same manner that it considers other material contained in the rulemaking file. However, while this material may be considered by the court in determining the validity of the rule, the material may not be reviewed for purposes of determining whether the agency has complied with the requirements of section 622 except as provided in sections 623 (b) and (c). More importantly, any findings the agency makes pursuant to the requirements of section 622 which the agency would not have been required to make in the absence of section 622 are not findings "on which the agency is required to rely" for purposes of section 706(d) of title 5, and need not have substantial support in the rulemaking file unless the agency asserts that those findings are the basis of the rule.

Several exceptions to this general preclusion of judicial involvement are set forth in sections 623 (b) and (c).

Section 623(b)(1) provides that section 623(a) does not preclude judicial review of the alleged failure of an agency to allow an oral presentation or cross-examination procedure required by section 622(e). Section 623(b)(1) does not, however, affirmatively provide for judicial review of an agency's failure to follow a procedure required by section 622(e). However, if review of such a procedural shortcoming is otherwise permitted by law, section 623(b)(1) allows such review to occur. The standard to be applied by the courts in deciding whether to entertain procedural challenges under this provision is identical to the one contained in section 622(f)(4) of H.R. 746 as reported by the Committee, and the explanation of its purpose and application is set forth in the Committee report (H. Rept. 97-435, 46-47).

Second, under section 623(b)(2), a court may direct an agency to issue the material required by sections 622 (b) and (c) and to comply with the oral presentation and cross-examination requirements of section 622(e) when the agency has unreasonably delayed doing so after having invoked the "good cause" provision of section 622(f). In such circumstances, the petitioner presumably would be asking the court to "compel agency action [that has been] unlawfully withheld or unreasonably delayed" within the meaning of 5 U.S.C. § 706(a)(1).

It should be understood that section 623(b)(2) does not authorize a court to hold a rule unlawful, set it aside, or even suspend its effectiveness. Rather, it permits a court to direct an agency, under penalty of contempt of court, to comply with the applicable requirements of section 622. If the validity of the rule at issue has been challenged, the court could hold the case (but not the rule) in abeyance until such time as the agency has completed its compliance with such requirements, so that the rule can be reviewed on the basis of the full rulemaking record that is developed at such time. This subsection in no way authorizes a court to review the sufficiency of any compliance with these provisions. The court may only consider whether an agency has issued material and conducted informal public hearings.

Section 623(b)(3) provides that if an agency fails to issue any material whatsoever that it designates as constituting the cost-benefit and cost-effectiveness analyses and related material required for major rules by sections 622(c) (5) and (6), a court may remand the rule to the agency with instructions to issue such material. A court may not act under this subsection, however, simply because it believes that the material the agency has designated as having been issued pursuant to sections 622(c) (5) and (6) is flawed or otherwise inadequate in some respect, nor may the court review the sufficiency of compliance with these subsections after the agency states it has issued such material pursuant to the direction of the court. Moreover, a court, acting under this provision, could not set a rule aside or prevent it from taking effect until the agency has issued what it designates as the material required by sections 622(c) (5) and (6). The court could, however, hold in abeyance any action challenging the validity of the rule until such time as the agency has issued the designated material and made it available to be considered by the court as provided in section 623(a). But, if an agency designates any material it has issued as constituting the material required to be issued by sections 622(c) (5) and (6), a court is precluded from considering whether the material so designated does, in fact, satisfy the requirements of sections 622(c) (5) and (6).

Section 623(c) provides that this section does not preclude a court from directing an agency to publish a proposed schedule for the review of rules (section 641(a)(1)), a final schedule for the review of rules (section 641(a)(4)), a notice of the review of a rule (section 641(c)), or a notice regarding whether, after review, a rule will be retained, repealed, or amended (section 641(e)). However, as with section 623(b), a review on such grounds does not allow a

court to consider the adequacy of any such schedule or notice that has been issued, or to require the revision of any such schedule, or to determine whether the agency should retain the rule or institute proceedings for its amendment or repeal. The court may only direct the agency to publish the schedule or notice and to chose between (1) initiating a rulemaking to repeal or amend the rule, or (2) issuing a notice of the retention of the rule. If the agency decides to initiate a rulemaking, the resulting rulemaking proceeding and any agency action based on that proceeding will be subject to judicial review just as they would be if the rulemaking had been instituted apart from any review under section 641.

Section 623(d) provides that the exercise of any authority granted under sections 621, 624, and 641 or the failure to exercise such authority by the President or by an officer delegated by the President to exercise such authority shall not be subject to judicial review in any manner. This means that the exercise of presidentia! authority, if within the ambit of this section, is not subject to judicial review. However, if the presidential action is beyond the ambit of authority granted by this section, then it is not insulated from judicial review. For example, if the President designated a rule of the Securities and Exchange Commission (SEC) as "major", the designation would not be judicially reviewable. However, if the President purported to exercise authority under section 624 to force the SEC to comply with the requirements applicable to major rules or with guidelines and procedures established under section 624, this action would be the outside the ambit of the authority granted by section 624 and therefore would not be insulated from judicial review. Another example would be if the President issued a guideline under section 624 that purported to require an agency to take rulemaking action without regard to the applicable standards of the enabling statute pursuant to which the agency was acting. In such a case, section 623(d) would not preclude a judical challenge to the validity of the decision reached by the agency with respect to the rulemaking proceeding. If the person challenging the agency action asserted that it conflicted with the standards of the relevant enabling statute, the agency could not defend its action by asserting that the action was in accordance with guidelines issued by the President under section 624, even though the issuance of those guidelines by the President is insulated from review under section 623(d).

Section 624. Executive oversight

Section 624 sets forth certain authority and responsibilities of the President under chapter 6. In contrast to the Committee bill, amended section 624 applies to all agencies, independent as well as executive. This was done because provisions were included in the amendment to ensure that presidential actions based upon authority granted under section 624 would not (1) displace the decision-making authority agencies, or (2) prevent agencies from preceeding with and concluding their rulemakings, or (3) require agencies to modify their proposed or final rules. These safeguards will protect the independent regulatory agencies, as well as executive branch agencies, from presidential intrusion under section 624 into their policy making discretion. Consequently there is no longer any need to exempt independent regulatory agencies from coverage under section 624.

Under section 624(a) the President is required to issue guidelines and procedures for agency implementation of the requirements of this chapter. The President is directed to monitor and review agency compliance with the provisions of this chapter and shall comment upon the adequacy of such compliance. Section 624(a) does not, however, authorize the President to ensure compliance with such provisions (or implementing guidelines or procedures); nor does it carry an implication as to whether the President has any such power under current law.

Section 624(b) provides that such guidelines and procedures shall be adopted only after public notice and comment and that they shall be consistent with the prompt completion of rulemaking proceedings. These guidelines and procedures may provide for review and evaluation by the President of the material required by sections 622 (b) and (c), however the review may not exceed 30 days (the President may extend this period for an additional 30 days). The purpose of such review would be to provide the President with an opportunity to comment upon whether such material complied with the requirements of this chapter; however, section 624(b) does not authorize the President to ensure that the agency has in fact complied.

Section 624(c)(1) makes clear that nothing in section 624 either provides authority, or limits authority that the President may otherwise possess, to prevent an agency from proceeding with a rulemaking or issuing a proposed or final rule. Nor does section 624 provide or limit any such authority that the President may otherwise possess to require an agency to modify a proposed or final rule or to comply with the guidelines or procedures established under section 624. Whatever authority the President may presently possess in this regard remains unchanged so far as Section 624 is concerned. And section 624 takes no position on the extent of the President's existing authority in these areas. It should be emphasized that the President would have no more authority to enforce compliance with his guidelines than would exist if section 624 were not enacted.

Section 624(c)(2) makes it clear that nothing in this section changes the standards applicable to agency action under any other provision of law or relieves an agency of procedural requirements imposed by any other provision of law. For example, if the guidelines purported to require an agency to disregard the standards set forth in its enabling statute, those guidelines would not have been authorized under this section, and an agency could not properly follow them; a rule adopted in compliance with such guidelines and in disregard of standards set forth in the relevant enabling statute would not be valid.

Section 624(c)(3) makes it clear that nothing in section 624 relieves an agency of its responsibilities to comply with the requirements of this chapter.

Section 624(d) allows the President to delegate the authority granted by subsection (a) of this section. Any person to whom such authority is delegated shall be subject to all the provisions of this section that apply to the exercise of that authority by the President.

Section 625. Review by the Comptroller General

Section 625(a) was modified to assure that the Comptroller General may review compliance by agencies with the provisions of all of chapter 6, and not just with sections 621 through 624. Under this provision, it is expected that the Comptroller General will review not only agency compliance with these provisions but also the performance of the President or his designee in carrying out sections 621, 624, and 641.

Section 625(b) was modified to make it clear that the Comptroller General is to obtain information necessary to review agency compliance in accordance with the procedures for obtaining information set forth in section 716 of title 31.

Section 626. Authority of agencies and the President

Section 626 is a new section that reformulates a provision set forth in section 624(c) as H.R. 746 was reported by the Committee.

The purpose of section 626(a), as was the purpose of the comparable provision in H.R. 746, is to make clear that agencies retain their jurisdiction, authority, and responsibility to initiate, conduct, or complete rulemaking proceedings and to make it clear that chapter 6 does not shift decision-making power from the agencies to the President or his designee.

Similarly, subsection (b) of this section makes it clear that nothing in this chapter limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States.

Section 641. Review of rules

Section 641 provides for the review of all existing major rules on a ten year schedule. It also provides that all new major rules be reviewed within 10 years of their promulgation. Generally, this section is clear and does not need explanation. However, a few points should be made.

The review of a rule can be a time-consuming and burdensome task. Thus, when the President designates an existing rule as major for purposes of review, consideration should be given to the agency resources available to conduct the review and to the other ongoing responsibilities of the agency.

The review itself should be conducted in an expeditious manner. It should focus on the identifiable results of a rule (costs, benefits, compliance, etc.). Speculative analysis will be of little use in determining whether to repeal, amend, or retain a rule. Moreover, the notice of review issued by the agency should be as succinct as possible while still covering each of the points required to be considered.

TITLE II

This amendment makes only a few changes to the revision of section 553 of title 5 as reported by the Committee.

Section 553. Amendments to section 553 of title 5—Rulemaking

Section 553(a)(2) is modified so that the exemption for rules regarding agency organization, procedure or practice is moved to subsection (b) where it is located in current law. The effect of this change is that such rules will be exempt (as they are now) from notice and public comment only if the agency has good cause for doing so.

Section 553(a)(3) is modified to rephrase the exemption from section 553 of certain interpretative rules or general statements of policy. This change was made only to better capture the intent of the similar provision in H.R. 746 as reported by the Committee. Thus, the rationale for and applicability of this change remains the same as that set forth in the Committee report (H. Rept. 97-435, 59-62).

Section 553(b)(1) remains essentially as it was reported by the Committee. A few largely technical changes have been made, but the substance of the provision has not been affected. Thus, in its present form, section 553(b)(1) continues to require that the notice of proposed rulemaking contain more complete information than has been required in the past, so that the public will have a better understanding of the problem that the agency believes needs to be addressed by the rule and how the agency believes the rule will bring about an improvement in the status quo. Such information will permit the public to submit more informed comments and to suggest more useful proposals for possible alternatives to the rule.

Section 553(b)(2) permits the agency to waive the provisions of sections 553(b) and (c) "to the extent that the agency for good cause finds that notice and public procedure with respect to the rule are impracticable, unnecessary, or contrary to the public interest . . ." This provision is modified from the one currently contained in section 553. The present standards for waiver of these provisions are in no way changed by this bill. However, the addition of the words "to the extent" means that the good cause exception to notice and comment procedures is not an "all-or-nothing" mechanism. This change contemplates that full application of the requirements of sections 553 (b) and (c) may be impracticable, unnecessary, or contrary to the public interest, but that partial application of those requirements may be possible. For example, an agency may find, for good cause, that the full 60-day public comment period required by section 553(c)(1) is unnecessary with respect to a rule which raises no issues of any particular complexity. In such cases, the agency, acting under section 553(b)(2), might provide for a more abbreviated public comment period, finding that the 60-day comment period required by section 553(c)(1) is unnecessary. An agency might also find that the public interest requires the speedy promulgation of a rule and that a 60-day public comment period would be contrary to the public interest, but that a shorter period might be possible. In such a case, the agency should provide at least the abbreviated comment period, rather than providing no pre-adoption comment period at all. In either of these cases, the agency should comply with the remaining requirements of section 553 (b) and (c) to the extent possible.

A new section 553(c)(2) is added to the bill. This new subsection requires that, unless otherwise permitted by law, an agency may not rely substantially on any report, study, or other document containing significant factual material of central relevance to the rulemaking unless such document was placed in the rulemaking file at the time the notice of proposed rulemaking was issued or, if publicly available, identified in such notice. The phrase "unless otherwise permitted by law" not only refers to cases where a specific statute authorizes reliance, but also encompasses the doctrine of official notice and situations in which courts have permitted agencies to rely on confidential material such as that described in section 552(b) of title 5 without making it available to the public.

Section 553(c)(2) applies only to a document "containing significant factual material of central relevance to the rulemaking." By focusing on "significant factual material," it is clear that section 553(c)(2) does not apply to material that is policy-oriented or legal in nature. Unless barred by some other requirement of law, the agency remains completely free to rely substantially on such material. The same is true of advice, recommendations, interpretations, and discussions of law. This is not to say that such policy and legally oriented material should not be placed in the rulemaking file or that some other provision of law may not require the agency to take such action as a precondition to relying substantially on the material in promulgating a rule.

Nevertheless this subsection provides that under two circumstances an agency may substantially rely on such report, study, or other document even though it was neither placed in the file at the time of the notice of proposed rulemaking nor publicly available and identified in such notice. Section 553(c)(2)(A) provides that an agency may rely on such material which was developed by or under contract with the agency if the public has had an adequate opportunity to comment on it. The section provides that twenty-one (21) days constitutes an adequate opportunity for comment.

Section 553(c)(2)(B) applies to any report, study, or other document containing significant factual material of central relevance to the rulemaking that was not developed by or under contract with the agency. Under section 553(c)(2)(B), an agency may rely substantially on the document, as long as it placed the document in the rulemaking file promptly after the earlier of (i) receiving or (ii) reviewing the document in the course of the rulemaking proceeding. The documents most typically covered by this subsection will be public comments submitted in the rulemaking proceeding. For the most part, such comments will be received by the agency on the last day provided for public comment. As long as the agency places the comments in the rulemaking file promptly after receiving them, it may rely substantially on any material contained in those comments without providing additional rounds of rebuttal in which members of the public can respond to each other's comments. The agency may choose to permit a rebuttal round of comment in some instances, but nothing in section 553(c)(2)(B) requires the agency to do so.

To avail itself of section 553(c)(2)B), the agency must place the report, study, or other document in the file promptly after the earlier of receiving or reviewing it. In some instances, an agency may decide to rely substantially upon a document that it received outside the course of the rulemaking proceeding or at a time when the rulemaking had not yet commenced. In such a case, the agency may never actually receive the document in the course of the rulemaking proceeding. However, it will have reviewed the document in the course of the proceeding before deciding to rely substantially on factual material contained in the document. At the time it reviews the document and makes that decision, the document must be placed in the rulemaking file in order to bring exception (B) into play.

Section 553(f) required that each agency maintain a file for each rulemaking proceeding conducted pursuant to this section. These requirements have been modified by this amendment. The purpose of these modifications is to make the requirements more precise.

Section 553(f)(1)(B) requires that the file include a copy of all written comments on the proposed rule submitted after publication of the notice of proposed rulemaking. Such comments would include any made by the President or his designee to an agency regarding a specific rulemaking proceeding, whether or not the agency chose to follow any suggestions contained in those comments.

Section 553(f)(1)(D) requires that the file include a copy of all written material pertaining to the rule submitted by the agency to the President (or the designee of the President who has been directed to review rules for their regulatory impact). A similar requirement had originally been included in section 624. It was moved to section 553 so it would cover all rules, not just major rules. While section 553(f)(1)(D) does not require that all communications between the President and an agency relating to a rule be reduced to writing, the public character of rulemaking proceedings ordinarily will be best served when all significant communications between the President (or the designee) and an agency regarding a rule are reduced to writing and placed in the record.

Section 553(f)(1)(E) is a new provision. It requires inclusion in the rulemaking file of a written explanation by the agency of the specific reasons for any significant changes it made to the proposed or final rule in response to comments received from the President (or his designee). Again, the purpose of this provision is to preserve the public character of rulemaking under the APA. Since the authority to promulgate rules resides in the agency, it must explain the basis of any changes it makes that respond to comments from the President (or the designee).

Section 553(f)(2) is modified to make it clear that it in no way changes existing law with respect to the circumstances in which and the extent to which an agency promulgating a rule may rely on materials which are not made available to the public. Rather, this subsection merely spells out the procedure for disclosure if an agency acts in reliance on such material. This section also makes it clear that even if material described in sections 553(f)(1) (D) and (E) might normally be exempt from public disclosure, they must nevertheless be included in the file.

Section 553(f)(3) limits the extent of judicial review of an agency's failure to comply with subparagraph (D) or (E) of paragraph (1) of this section. Thus, a rule would be held unlawful or set aside due to such errors only if the violation precluded fair public consideration of a material issue of the rulemaking taken as a whole. An agency failure under subparagraphs (A), (B), and (C) would be reviewed under the present standard of review which takes account of the rule of prejudicial error.

Section 553(g), designated section 553(h) in the bill reported by the Committee, is unchanged by this amendment. However, an explanation of section 553(g)(10) is necessary because of some confusion over this provision.

Section 553(g)(10) provides that the legislative veto procedure does not apply to rules proposed or issued pursuant to a statute which expressly provides for congressional review or veto of such rules. This includes rules promulgated under statutes in which the veto provision was included as a condition of the original grant of power, as well as those rules where the veto was imposed long after the original grant, such as the veto applying to the Federal Trade Commission or to the Department of Education under section 431 of the General Education Act. Thus, if any other legislative review or

veto provision applies to a rule, the provisions of section 553(g) do not apply.

Section 203. Judicial review of rulemaking

This section of the bill amends section 706 of title 5, which sets forth the standards for judicial review of agency action.

The first sentence of the amended version of section 706(c) directs courts to exercise their independent judgment in deciding questions of law without according any presumption in favor of or against agency action. In making determinations of law on questions other than statutory jurisdiction, a court is to give the agency's interpretation "such weight as it warrants, taking into account factors such as the discretionary authority provided the agency by law."

The purpose of this change is to make clear, in the statutory language itself, that a court may, in reviewing agency interpretations of questions of law, consider an agency's interpretation and rely upon it in construing a statute to the extent that the court finds it to be persuasive. While permitting a court to consider the agency interpretation, this amendment does not permit a court to presume that the interpretation of the agency is correct simply because it is the interpretation of the agency. The interpretation of the agency should be afforded "weight" by the reviewing court only because of its persuasiveness, not simply because of the source of the interpretation. (See *International Brotherhood of Teamsters* v. *Daniel*, 439 U.S. 551, 53 L.Ed. 2d. 808, 99 S. Ct. 790 (1979)).

This prohibition on presumption does not alter the substantive criteria for judicial review under section 706(a)(2). Those criteria remain unaffected; but, the agency's interpretation of a question of law may not be presumed to be correct in determining whether those criteria have been met. Thus, the sentence only precludes a court from presuming that the agency interpretation of law is correct, it does not relieve the court of the obligation of critically analyzing the basis of that interpretation.

In the instance of so-called mixed questions of fact and law and/or policy, the prohibition against presumptions which would be applicable to agency interpretations of questions of law should not be extended to questions of fact or policy because of the "mixture". Rather, the court must assume its traditional responsibility to parse questions of law, fact and policy; and the presumption prohibition should apply only to an agency's interpretation of questions of law. Questions of fact or policy are governed by other criteria in section 706.

This language makes clear that section 706(c) does not affect the rule that "agency expertise" may be relied upon by a reviewing court where it actually exists. Courts should continue to consider the construction or interpretation of statutes by agencies and should utilize as aids to the court's own independent statutory construction such factors and considerations as whether the interpretation is made by an agency charged with primary or central expertise under the statute; and whether the interpretation of a statutory word or phrase involves a matter that is "technical," where the expertise of the agency is specialized, well-developed or unique.

It is not intended that section 706(c) would affect the policy choice of an agency where a court finds the Congress had delegated to that agency a certain policymaking authority by giving it discretion to apply statutory terms. For example, the Federal Communications Commission has authority to issue rules that will serve "the public convenience, interest or necessity." This also includes instances where an agency decides not to act even though a statute authorizes, but does not require, the agency to act. *FCC* v. *WNCN Listeners Guild et. al.*, 450 U.S. 582 (1981); See, also *Watt* v. *Energy Action Educational Foundation, et. al.*, 50 U.S.L.W. 4031 (U.S. Dec. 1, 1981). Section 706(c) also does not preclude an agency from the consideration of other policies in its administration of a statute, unless the statute itself precludes such consideration.

Section 706(c) would apply even when the agency is not a party to the judicial action or the administrative action under review (see Daniel, Supra.), in other words the same application of the presumption prohibition would occur when a statutory interpretation by an agency is relevant to action between two other parties.

Although an agency interpretation of a statutory provision that governs procedure may not be presumed to be correct, this sentence of section 706(c) otherwise has no bearing on procedural matters and does not shift traditional burdens of going forward.

The third sentence of amended section 706(c) directs that, when a challenge to agency jurisdiction has been raised, the agency's action be shown to be within the scope of its jurisdiction on the basis of the language of the statute, or, in the event of ambiguity, other indicia of ascertainable legislative intent. The language of a statute may give rise to ambiguity because it is contradictory or inconsistent, or because of its breadth or vagueness, or because a literal interpretation would produce an anomalous result. In such cases, the court would look at indicia of ascertainable legislative intent to determine whether jurisdiction in fact exists. Under section 706(c), a court, in the event of ambiguity in the statutory language, should not uphold an extension of agency jurisdiction simply because the extension is based on a possible interpretation of the statute which is urged by the agency.

The words "determine whether" have been substituted for the words "require that" in section 706(c) to: (1) make clear that section 706(c) does not impose an obligation on the court to investigate the basis for agency jurisdiction sua sponte where agency jurisdiction has not been challenged by a party to the litigation, and (2) remove any implication that a new burden is placed on the agency to demonstrate the statutory basis for its jurisidiction. However, when a question regarding the basis for agency jurisdiction has been raised, the court should exercise its independent judgment, without presuming that the agency's interpretation of its statutory jurisdiction is correct.

Finally, a confusing reference to "agency authority" has been removed from the sentence dealing with jurisdiction. The term "jurisdiction" is intended to refer to agency power to act with respect to particular persons or subject matters.

Section 706(d) is modified to clarify the purpose of this subsection and to accomplish its objectives without creating unnecessary ambiguities. This new subsection (d), like the provision it replaces, applies to all agency rulemakings other than those to which the substantial evidence test applies. Like the new subsection (c) of section 706 which instructs courts on the application of section 706(a)(2)(C), the new subsection (d) provides guidance to courts on the application of the substantive standards in section 706(a)(2)(A). The purpose of the new subsection (d) is clear: reviewing courts are instructed to give a "hard look" to the factual underpinnings of informal rulemakings conducted by agencies. The approach taken by Judge Leventhal in *Portland Cement Ass'n* v. *Ruckelshaus*, 486 F. 2d 375 (D.C. Cir. 1973), cert. denied, 417 U.S. 921 (1974), is the model.

New subsection (d) clearly applies the "hard look" doctrine to judicial review pursuant to section 706(a)(2)(A), not as a separate, ambiguous substantive provision. In other words, a court in reviewing an agency rulemaking not subject to sections 556 and 557 would be required to "look hard" and specifically at the "factual basis" of a rule in ascertaining whether the rule was "arbitrary, capricious, or an abuse of discretion."

CONFERENCE REPORT ON H.R. 7144

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-972)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 9, 14, 15, 16, 20, 21, 22, 24, 25, 26, 27, 29, 30, 31, 36, 37, and 38.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 12, 19, 28, and 32, and agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$58,485,400*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$409,242,100*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$438,724,200*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Provided further, That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.), shall not exceed $24,748,700; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 4, 6, 7, 17, 23, 33, 34, 35, 39, 40, and 41.

JULIAN C. DIXON,
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Managers on the Part of the House.

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PATRICK J. LEAHY,
DALE BUMPERS,
WILLIAM PROXMIRE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Amendment No. 1: Appropriates $361,000,000 as proposed by the Senate instead of $336,600,000 as proposed by the House. The additional amount of $24,400,000 above the House allowance reflects the increase in the Federal payment authorization in Public Law 97-334 which was approved October 15, 1982 subsequent to House passage of H.R. 7144 on September 30, 1982.

Amendment No. 2: Restores matter proposed by the House and stricken by the Senate stating that the Federal payment shall not be made available to the District of Columbia until the number of full-time uniformed officers is at least 3,880 using the same qualification standards as those in effect on the date of the House subcommittee's markup.

The Conferees are agreed that the total uniformed strength of the Metropolitan Police Department shall be not less than 3,880 police officers. This is somewhat of a departure from position allocations which are usually considered employment ceilings rather than the minimum number of employees. This change is necessary because of language agreed to by the conferees which provides that the Federal payment is not available until the number of uniformed officers reaches 3,880. The Metropolitan Police Department cannot maintain the full complement of police officers with an employment ceiling of 3,880. The conferees are agreed that by allowing the Department to exceed the number specified for purposes of maintaining an average strength of 3,880, the Department will meet the provisions of the amendment and maintain an average of 3,880 uniformed police officers monthly beginning on April 15, 1983.

SPECIAL CRIME INITIATIVE

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, $2,342,600: Provided, that this amount shall be available to the Metropolitan Police Department.

For the Department of Justice for use in the Superior Court Division of the U.S. Attorney's Office for the District of Columbia, $800,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included a total of $3,142,600 for the Special Crime Initiative. This sum will provide for several special programs to improve the detection of crime and to provide greater public safety.

Of this amount a total of $2,342,600 is provided for the Metropolitan Police Department for the one-time purchase of needed equipment. The Department requires 367 additional portable radios to support the increased number of police officers. Since the fiscal year 1983 budget provided for only 157 radios, the conferees have allowed $525,000 to purchase the balance of 210 radios.

The remaining amount of $1,817,600, will be used to purchase an automated fingerprint identification system and ancillary equipment. Currently, fingerprints obtained at the scene of a crime or from an arrested suspect must be analyzed by hand, taking several hours and, in some instances days. With this new equipment utilizing high-speed laser technology, officers will be able to perform this task and provide a positive identification within minutes. This will allow police officers to properly identify suspects who give false names, and will permit the Department to obtain warrants for arrest sooner, thus allowing less time for the criminal to flee. This time-saving device also will increase police productivity, so that offices can perform other investigative work. In addition, prosecutors will have more time to prepare their cases.

The conferees are agreed that $800,000 is to be provided directly to the Federal Department of Justice to hire approximately 22 new Assistant U.S. Attorneys for the Superior Court branch of the District of Columbia office.

The conferees were informed that the current caseload of the 78 Assistants is about 70 to 75 per person with the optimum caseload being 40 to 50 per person. The workload problem is becoming more critical daily. Recent statistics show that there are currently 6,200 felony cases as well as 1,500 grand jury proceedings pending with the caseload increasing at the rate of 125 cases per day. These additional resources will provide for a more manageable workload in the office.

The conferees intend that future budget requests for the Department of Justice will include funding for these positions as well as other related resources required by the District of Columbia U.S. Attorney's Office.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds "(Including Rescission)" to the center heading.

Amendment No. 5: Deletes language proposed by the House and stricken by the Senate concerning the availability of previous Federal loan appropriations.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which strikes language proposed by the House placing a limitation on the amount of direct Federal loans available to the District of Columbia and inserts language rescinding $48,832,500 in Federal loan authority.

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$69,545,500*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Council of the District of Columbia.—The conference action provides 139 positions and $4,914,300 as proposed by the Senate instead of 137 positions and $4,714,300 as proposed by the House. The conferees direct that $77,040 be transferred from the separate "personal services" appropriation to the Council to cover pay adjustment costs, notwithstanding the independent judgment of the executive branch.

Office of Personnel.—The conference action provides 361 positions and $10,532,700 as proposed by the Senate instead of 308 positions and $9,499,400 as proposed by the House.

Department of General Services.—The conference action provides 453 positions and $23,353,600 as proposed by the House instead of 454 positions and $23,645,400 as proposed by the Senate.

Office of Employee Appeals.—The conference action provides 16 positions and $659,000 as proposed by the House instead of 18 positions and $685,700 as proposed by the Senate.

District of Columbia Retirement Board.—The conference action provides $425,000 from the general fund and $1,264,000 from investment income as proposed by the House instead of $1,689,000 from investment income as proposed by the Senate. Amendment No. 9 is related to this item.

The conferees are agreed that any shortfall in the amounts included in the District's budgets as the net-pay-as-you-go and amortization payments for the pension funds for fiscal year 1983 and future years is to be paid by the District government over a three-year period in accordance with the terms of the agreement reached by the Mayor and Retirement Board on September 29, 1982, and printed on page H-8479 of the Congressional Record of October 1, 1982.

Amendment No. 8: Deletes language concerning voter education in connection with the District of Columbia Statehood Constitutional Convention Initiative proposed by

the House and stricken by the Senate. The language required the preparation and mailing, prior to the November 2, 1982 election, of objective statements both for and against the provisions of the constitution as expressed by the convention delegates. This language was included in Public Law 97-276, approved October 2, 1982 (96 Stat. 1193).

Amendment No. 9: Restores language proposed by the House and stricken by the Senate which provides $425,000 from general fund revenues for expenses of the District of Columbia Retirement Board.

ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 10: Appropriates $58,485,400 instead of $58,263,400 as proposed by the House and $61,122,000 as proposed by the Senate.

Department of Housing and Community Development.—The conference action provides $20,539,100 instead of $24,107,700 as proposed by the House and $26,707,700 as proposed by the Senate. The decrease of $3,568,600 reflects approval by the conferees of the transfer of the Building and Zoning Regulation Administration from the Department of Housing and Community Development to the Department of Licenses, Inspections and Investigations. This transfer was requested by the Mayor in a letter to the Committees dated November 16, 1982.

Housing Finance Agency.—The conference action provides $2,593,200 instead of $2,371,200 as proposed by the House and $2,815,100 as proposed by the Senate. The increase of $222,000 above the House allowance includes $18,500 for personnel fringe benefits; $193,300 for supplies, building rent and equipment, and $10,200 for pay adjustment costs.

Department of Licenses, Inspections and Investigations.—The conference action provides $8,202,200 instead of $4,633,600 as proposed by the House and the Senate. The increase of $3,568,600 above the House and Senate allowances reflects approval by the conferees of the transfer of the Building and Zoning Regulation Administration from the Department of Housing and Community Development to the Department of Licenses, Inspections and Investigations. This transfer was requested by the Mayor in a letter to the Committees dated November 16, 1982.

Commission on the Healing Arts Licensure.—The conference action provides 12 positions and $400,000 as proposed by the House instead of 5 positions and $214,700 as proposed by the Senate.

PUBLIC SAFETY AND JUSTICE

Amendment No. 11: Appropriates $409,242,100 instead of $410,175,078 as proposed by the Senate and $405,111,600 as proposed by the House.

Metropolitan Police Department.—The conference action provides $130,635,400 as proposed by the Senate instead of $128,292,800 as proposed by the House and includes increases of (1) $1,817,600 for an automated fingerprint identification system which uses high-speed laser technology and (2) $525,000 to purchase 210 portable communication radios for the 3,880 uniformed officer force. The conference agreement recommends a special one-time Federal payment under amendment number 3 to finance these purchases.

Fire Department.—The conference action provides $47,569,000 instead of $46,369,000 as proposed by the House and $48,769,000 as proposed by the Senate. The increase of $1,200,000 will allow the Department to fund 93 additional positions to staff the four heavy duty rescue units with separate crews beginning in April 1983. The conferees are agreed that the four units are to be fully staffed with separate crews by September 30, 1983.

Superior Court.—The conference action provides 916 positions and $30,941,800 as proposed by the Senate instead of 906 positions and $30,656,800 as proposed by the House. The increase of 10 positions and $285,000 above the House allowance is for three hearing commissioners and support staff. The use of hearing commissioners is expected to free up at least two judges for criminal trial duties.

D.C. Court System.—The conference action provides 66 positions and $6,368,200 as proposed by the Senate instead of 65 positions and $6,332,300 as proposed by the House. The increase of one position and $35,900 above the House allowance is for a CS-13 Training Officer and related benefits.

Police and Fire Retirement System.—The conference action provides $84,967,000 instead of $84,700,000 as proposed by both the House and the Senate. The increase of $267,000 above the House and Senate allowances reflects the agreement dated September 29, 1982 between the Mayor and the Retirement Board concerning the shortfall in the budget estimates which resulted from incomplete and insufficient personnel records provided by District officials. This agreement is printed on page H-8479 of the October 1, 1982 CONGRESSIONAL RECORD.

Amendment No. 12: Provides $300,000 for use by the Police Chief in the prevention and detection of crime as proposed by the Senate instead of $230,000 as proposed by the House.

PUBLIC EDUCATION SYSTEM

Amendment No. 13: Appropriates $438,724,200 instead of $434,171,200 as proposed by the House and $439,042,100 as proposed by the Senate.

Teachers Retirement and Annuity Fund.—The conference action provides $55,883,000 instead of $51,400,000 as proposed by the House and $55,700,000 as proposed by the Senate. The increase of $4,483,000 above the House allowance reflects the agreement reached subsequent to House action on the bill by the Mayor and the Retirement Board concerning the shortfall in the District government's contribution to the fund in fiscal year 1981.

The agreement calls for the District government to make up the total shortfall of $14,300,000 in fiscal year 1981 in the Teachers Retirement and Annuity Fund and the Police and Fire Retirement System plus interest of $1,400,000 by making principal payments of $4,750,000 in three successive fiscal years, beginning in fiscal year 1983, with interest payments of $475,000 in three successive years beginning in fiscal year 1984. The $4,750,000 consists of the $4,483,000 under this fund and $267,000 under the Police and Fire Retirement System discussed earlier under the Public Safety and Justice appropriation.

Public Library.—The conference action provides $11,246,300 as proposed by the Senate instead of $11,176,300 as proposed by the House. The increase of $70,000 above the House allowance will allow the Martin Luther King Library to be open on Sunday afternoons during the school year.

Commission on the Arts and Humanities.—The conference action provides seven positions and $882,400 as proposed by the House instead of eight positions and $1,383,400 as proposed by the Senate.

Allocation of Public Education Appropriation.—The conferees are agreed that the appropriation of $438,724,200 under the heading "Public Education System" is to be allocated as follows:

Board of Education (Public Schools)	$306,517,800
Teachers Retirement and Annuity Fund	55,883,000
University of the District of Columbia	58,342,400
Public Library	11,246,300
Commission on the Arts and Humanities	882,400
Educational Institution Licensure Commission	171,300
School Transit Subsidy	5,681,000

Amendment No. 14: Restores language proposed by the House and stricken by the Senate which requires that $515,000 of the funds provided for the District of Columbia Public Schools shall be used exclusively for the operation of the driver education program.

Amendment No. 15: Restores the word "further" proposed by the House and stricken by the Senate.

Amendment No. 16: Strikes language proposed by the Senate relating to the fiscal year 1981 shortfall in the Teachers Retirement and Annuity fund since the shortfall also applies to the Police and Fire Retirement System. The conferees are agreed that of the $55,883,000 provided under this appropriation heading for the Teachers Retirement and Annuity Fund, $4,483,000 is to be applied against the fiscal year 1981 shortfall in this fund.

HUMAN SUPPORT SERVICES

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$466,890,500*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office on Latino Affairs.—The conference action provides seven positions and $290,900 as proposed by the House instead of eight positions and $370,000 as proposed by the Senate.

Department of Employment Services.—The conference action provides $14,094,000 for the District's four jobs programs as proposed by the Senate instead of $13,430,000 as proposed by the House. The additional $664,000 above the House allowance is split equally between two programs and will provide a total of $3,337,300 for the "out-of-school jobs for youth" program and $4,714,900 for jobs for "adults with dependents."

Department of Human Services.—The conference action provides $334,912,200 instead of $315,636,500 as proposed by the House and $333,046,400 as proposed by the Senate. The conference allowance provides $120,000 for the Special Olympic Games as proposed by the House instead of $90,000 and report language as provided by the Senate. The conference agreement also provides $194,600 for the Office of Veterans Affairs as proposed by the House instead of $158,000 and report language as provided by the Senate. A total of $13,007,900 is provided for child day care services as proposed by the Senate. This allowance reflects an increase of $1,768,000 above the fiscal year 1982 level

and $918,000 above the House allowance for fiscal year 1983. The conference agreement provides a total of $97,518,700 for the District's Medicaid/Medical Charities program as proposed by the Senate instead of $80,961,000 as proposed by the House. The conference action also provides $24,748,700 for reimbursement to Saint Elizabeths Hospital instead of $26,548,700 as proposed by the House and $22,948,700 as proposed by the Senate.

Amendment No. 18: Restores language proposed by the House and stricken by the Senate amended to limit the amount to be paid to Saint Elizabeths Hospital from the District's local revenues to not to exceed $24,748,700 instead of $26,548,700 as proposed by the House and $22,948,700 as proposed by the Senate. The conferees are agreed that the District's share of the operating costs of Saint Elizabeths Hospital must increase to a level which reflects the heavy use of these services by District residents. The conferees direct the Department of Health and Human Services and the District government to work closely in developing a fiscal year 1984 proposal which will accomplish this goal over a reasonable period of time.

Amendment No. 19: Deletes language proposed by the House and stricken by the Senate which would have required District officials to obtain Congressional approval of a plan prior to obligating any funds appropriated for the summer youth jobs program. The conferees note the significant progress made by District officials in the administration of the summer jobs program over the past few years and urge that these efforts be continued in the future.

Amendment No. 20: Appropriates $135,712,400 as proposed by the House instead of $136,712,400 as proposed by the Senate.

ENVIRONMENTAL SERVICES AND SUPPLY

Amendments Nos. 21 and 22: Appropriate $38,337,000 of which $5,427,000 shall be transferred to the Water and Sewer Enterprise Fund as proposed by the House instead of $50,140,500 of which $17,230,500 shall be transferred to the Water and Sewer Enterprise Fund as proposed by the Senate.

PERSONAL SERVICES

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$17,364,100*

The managers on the part of the Senate will move concur in the amendment of the House to the amendment of the Senate.

The conference action provides $17,364,100 to cover the unallocated cost-of-living pay increases for employees of the District government in fiscal year 1983. This amount which includes $6,352,000 to cover optical and dental benefit costs for certain groups of employees is under a separate appropriation title since some of the collective bargaining agreements had not been signed at the time the District's budget was developed. While this amount is above the House and Senate allowances, it is $6,330,700 below the amount requested and District agencies will therefore be required to absorb a larger than expected percentage of the pay adjustment costs.

Amendment No. 24: Restores language proposed by the House and stricken by the Senate which provides that $1,100,000 of the personal services appropriation shall be solely for the Metropolitan Police Department.

REPAYMENT OF GENERAL FUND DEFICIT

Amendment No. 25: Restores matter proposed by the House and stricken by the Senate which requires that funds appropriated under this heading be used to eliminate the cash portion of the $309,000,000 general fund accumulated deficit as of September 30, 1981. The Senate proposed striking the reference to the cash portion of the deficit.

Amendment No. 26: Appropriates $20,000,000 as proposed by the House instead of $10,000,000 as proposed by the Senate.

ENERGY ADJUSTMENT

Amendment No. 27: Restores matter proposed by the House and amended by the Senate authorizing the Mayor to reduce the energy budgets within one or several of the appropriation titles by $2,078,500.

CAPTAL OUTLAY

Amendment No. 28: Appropriates $83,885,600 as proposed by the Senate instead of $83,439,500 as proposed by the House. The Senate amendment provides an increase of $446,100 above the House allowance for the highest priority road and bridge projects in the Department of Transportation. The conferees are agreed that this increase is to be used for two projects at Fort Lincoln new town —$552,000 for street construction of 33rd Place, N.E. from South Dakota Avenue to Fort Lincoln Drive (project No. DB-35), and $1,500,000 for grading and paving Fort Lincoln Drive from 31st Street, N.E. to beyond 33rd Place, N.E., and design services for the extension of Barney Drive to Eastern Avenue. The conferees are further agreed that the balance required to complete these two projects should be met by reprograming funds from completed projects District-wide.

WATER AND SEWER ENTERPRISE FUND

Amendments Nos. 29 and 30: Appropriates $107,195,900 of which $16,726,500 shall be for debt service for construction loans as proposed by the House instead of $114,479,400 of which $24,010,000 shall be for debt service for construction loans as proposed by the Senate.

Amendment No. 31: Restores language proposed by the House and stricken by the Senate which provides that capital outlay projects under the Water and Sewer Enterprise Fund shall be subject to the same requirements and restrictions applicable to general fund capital improvement projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

Amendment No. 32: Adds the words "as amended" to the authorization citation for the Lottery and Charitable Games Enterprise Fund as proposed by the Senate. Certain technical changes were included in Public Law 97-276 approved October 2, 1982 (96 Stat. 1193), to the permanent legislation enacted in Public Law 97-91 approved December 4, 1981, establishing the Lottery and Charitable Games Enterprise Fund. These technical changes were made after the House passed H.R. 7144 on September 30, 1982.

GENERAL PROVISIONS

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: *33,268*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides a ceiling of 33,268 on the number of full-time, permanent employees in the District government instead of 33,109 as proposed by the House and 33,165 as proposed by the Senate. The increase is due mainly to the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: *32,211*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides a ceiling of 32,211 on the number of full-time permanent employees financed from the general fund instead of 32,052 as proposed by the House and 32,108 as proposed by the Senate. As in amendment No. 33, this increase in the position ceiling results primarily from the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: *28,616*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides 28,616 appropriated positions instead of 28,459 as proposed by the House and 28,515 as proposed by the Senate. As in amendments numbered 33 and 34, this increase is necessary mainly to accommodate the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 36: Restores matters proposed by the House and stricken by the Senate prohibiting the obligation or expenditure of funds through reprogramming unless advance approval of the reprogramming is obtained in accordance with established procedures set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979).

Amendment Nos. 37 and 38: Restore section numbers proposed by the House and changed by the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section numbered 125 named in said amendment, insert the following: *126*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section authorizing the Mayor to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Executive Schedule under 5 U.S.C. 5315, and provides that this salary may be payable to the City

Administrator during fiscal year 1983. The conference action also authorizes the Mayor to set the per diem rate for board members of the Redevelopment Land Agency in the manner consistent with his authority to set these rates for members of other boards and commissions of the District government. The Mayor does not have this authority at the present time.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section numbered 126 named in said amendment, insert the following: *127*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section which removes District employees from the pay ceiling for Federal employees. The language provides that the pay setting authority for District employees shall be the District's Merit Personnel Act rather than title 5 of the United States Code.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section number 127 named in said amendment, insert the following: *128*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section which requires that necessary permits must be obtained from appropriate State agencies before sludge from the District's municipal waste system may be disposed of in any public or private landfills not currently used for this purpose.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

Federal funds	
New budget (obligational) authority, fiscal year 1982	$557,170,000
Budget estimates of new (obligational) authority, fiscal year 1983	579,870,000
House bill, fiscal year 1983	545,470,000
Senate bill, fiscal year 1983	524,180,100
Conference agreement, fiscal year 1983	524,180,100
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	−32,989,900
Budget estimates of new (obligational) authority, fiscal year 1983	−55,689,900
House bill, fiscal year 1983	−21,289,900
Senate bill, fiscal year 1983	
District of Columbia funds	
New budget (obligational) authority, fiscal year 1982	*$1,965,758,600*
Budget estimates of new (obligational) authority, fiscal year 1983	*[1] 2,005,949,400*
House bill, fiscal year 1983	*1,971,653,200*
Senate bill, fiscal year 1983	*2,007,309,900*
Conference agreement, fiscal year 1983	*1,998,841,900*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	*+33,083,300*
Budget estimates of new (obligational) authority, fiscal year 1983	*−7,107,500*
House bill, fiscal year 1983	*+27,188,700*
Senate bill, fiscal year 1983	*−8,468,000*

[1] Includes $24,400,000 of budget estimates not considered by the House.

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DALE BUMPERS,
WILLIAM PROXMIRE,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STOKES (at the request of Mr. WRIGHT), after 3:30 p.m. today, on account of attending a funeral.

Mr. YATES (at the request of Mr. ROSTENKOWSKI), for today, on account of illness in the family.

Mr. TAUKE (at the request of Mr. MICHEL), for December 15 and 16, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING, for 5 minutes, today.

Mr. NELLIGAN, for 20 minutes, on December 17.

(The following Members (at the request of Mr. YOUNG of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. GAYDOS, for 30 minutes, today.

Mr. ST GERMAIN, for 10 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. FROST, for 60 minutes, on December 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HARKIN, in support of the Schumer amendment, to appear prior to vote on Schumer amendment.

Mr. BAILEY of Pennsylvania, to revise and extend his remarks following the remarks of the gentleman from Florida (Mr. GIBBONS) in the Committee of the Whole today.

Mr. BEREUTER, to insert his remarks on COATS' amendment during debate on COATS' amendment.

Mr. SOLOMON, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,618.

Mr. SAM B. HALL, JR., and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,618.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. COLLINS of Texas in two instances.
Mr. TAUKE.
Mr. KEMP.
Mr. CARMAN.
Mr. DERWINSKI.
Mr. GILMAN in three instances.
Mr. FIELDS in three instances.
Mr. ATKINSON.
Mr. DORNAN of California in two instances.
Mr. BEREUTER in two instances.
Mr. BROOMFIELD.
Mr. MCCLOSKEY.
Mr. COURTER.
Mr. FRENZEL in five instances.
Mr. WOLF.
Mr. RITTER.
Mr. NELLIGAN.
Mr. LAGOMARSINO.

(The following Members (at the request of Mr. YOUNG of Missoui) and to include extraneous matter:)

Mr. PEPPER.
Mr. HOYER in two instances.
Mr. MAZZOLI.
Mr. ALEXANDER in five instances.
Mr. DINGELL in four instances.
Mr. ZABLOCKI.
Mr. HUBBARD.
Mr. SIMON in two instances.
Mr. HARKIN in two instances.
Mr. MOTTL.
Mr. MOFFETT in two instances.
Mr. MCHUGH in two instances.
Mr. CONYERS.
Mr. BOLAND in two instances.
Mr. FORD of Michigan in two instances.
Mr. STARK in two instances.
Mr. SOLARZ in two instances.
Mr. TRAXLER.
Ms. FERRARO.
Mr. UDALL in two instances.
Mr. LANTOS.
Mr. WON PAT.

Mr. FROST in five instances.
Mr. GUARINI.
Mr. MONTGOMERY.
Mr. BIAGGI.
Mr. ROYBAL.
Mr. AKAKA.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 24 minutes p.m.) the House adjourned until tomorrow, Thursday, December 16, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

5299. Under clause 2 of rule XXIV, a letter from the Secretary of Energy, transmitting the ninth quarterly report on biomass energy and alcohol fuels, for the period July through September 1982, pursuant to section 218(a) of Public Law 96-294, was taken from the Speaker's table and referred, jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. Report on contempt of Congress (Rept. No. 97-968). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 629. A resolution providing for the consideration of H.R. 7397, a bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region. (Rept. No. 97-969). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 630. A resolution providing for the consideration of H.R. 3191, a bill to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions (Rept. No. 97-970). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 631. A resolution providing for the consideration of S. 1965, a bill to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System (Rept. No. 97-971). Referred to the House Calendar.

Mr. DIXON: Committee of conference. Conference report on H.R. 7144 (Rept. No. 97-972). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL:

H.R. 7422. A bill to provide that any policy change which is adopted by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee and which will affect interest rates or the supply of money shall be subject to a congressional disapproval procedure; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SAM B. HALL, JR.:

H.R. 7423. A bill to recognize the organization known as Former Members of Congress; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 7424. A bill to establish a hydrogen research and development program; to the Committee on Science and Technology.

By Mr. LOEFFLER (for himself, Mr. COELHO, Mr. CRAIG, Mr. HIGHTOWER, Mr. MARLENEE, and Mr. SKEEN):

H.R. 7425. A bill to increase temporarily the duty on certain wool that is the product of Argentina or Uruguay; to the Committee on Ways and Means.

By Mrs. MARTIN of Illinois:

H.R. 7426. A bill to establish a program to provide funds to States for the purpose of job opportunities and business stimulation, and for other purposes; to the Committee on Education and Labor.

H.R. 7427. A bill to require the Secretary of Agriculture to establish a program to offset agricultural export subsidies imposed by foreign countries by subsidizing the exportation of agricultural commodities produced in the United States and products of such commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

519. The SPEAKER presented a memorial of the Senate the State of Illinois, relative to missing-in-action servicemen and civilians in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUBBARD introduced a bill (H.R. 7428) for the relief of Kirsten Rytgaard; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2034: Mr. HARKIN.
H.R. 4086: Mr. CLINGER.
H.R. 6463: Mr. MCEWEN.
H.R. 6531: Mrs. COLLINS of Illinois and Mr. ANNUNZIO.
H.R. 6538: Mr. MORRISON.
H.R. 6850: Mrs. COLLINS of Illinois.
H.R. 7108: Mr. HANSEN of Idaho.
H.R. 7275: Mr. ST GERMAIN, Mr. SABO, Ms. FERRARO, Mr. WOLF, Mr. MURTHA, Mr. HOWARD, Mr. SMITH of New Jersey, Mrs. SCHROEDER, Mr. HOYER, Mr. UDALL, Mr. GARCIA, Mr. LELAND, Mr. CLAY, Mr. FAZIO, Mr. WEISS, Mr. BARNES, Mr. MATSUI, Mr. OTTINGER, Mr. DELLUMS, Mr. DE LUGO, Mr. DASCHLE, Mr. JOHN L. BURTON, Mr. DYMALLY, Mr. FAUNTROY, Ms. MIKULSKI, Mr. WASHINGTON, and Mr. WON PAT.
H.R. 7406: Mr. ANNUNZIO, Mrs. COLLINS of Illinois, Mr. ERLENBORN, Mr. PORTER, and Mr. ROSTENKOWSKI.
H.R. 7411: Mr. WATKINS, Mr. KEMP, Mr. FISH, Mr. STOKES, AND Mr. BETHUNE.
H.J. Res. 459: Mr. MCCURDY.
H.J. Res. 558: Mr. ATKINSON, Mr. GINGRICH, Mr. LAFALCE, Mr. MINETA, Mr. LEACH of Iowa, Mr. CONTE, Mr. KILDEE, Mr. BEREUTER, Mr. MARTIN of New York, and Mr. LEATH of Texas.
H.J. Res. 591: Mr. SIMON, Mr. DECKARD, Mr. NEAL, Mr. SABO, Mr. FRANK, Mr. PASHAYAN, Mr. ENGLISH, Mr. BETHUNE, Mr. BROWN of California, Mr. FOUNTAIN, Mrs. HOLT, Mr. ATKINSON, Mr. YATRON, and Mr. WALKER.
H.J. Res. 603: Mr. SHARP and Mr. ROBERTS of South Dakota.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

S. 1965

By Mr. BAILEY of Missouri:

(Amendment in the nature of a substitute.)

—Strike all after the enacting clause and insert the following:

That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Missouri and of the environmental impacts associated with alternative allocaitons of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Missouri such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Missouri;

(2) with respect to the National Forest System lands in the State of Missouri which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, or designated as wilderness by this Act or previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewal Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Missouri reviewed in such final environmental statement and not designated as wilderness by this Act or previous Acts of Congress shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Missouri for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

H.R. 7397

By Mr. DE LUGO:

—On page 17, after line 15, insert a new section 103(e) and change subsequent subsections enumerations accordingly:

(e)(1) For purposes of this subsection, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United States.

(2) Duty-free treatment provided under this title during any calendar year after 1982 to bulk rum that is the product of a beneficiary country shall terminate for such portion of that year that remains after the quantity of such bulk rum which is entered during that year exceeds whichever of the following quota amounts is greater:

(A)(i) for calendar year 1983, an amount, as determined by the President, equal to 150 percent of the total amount of bulk rum that was the product of that beneficiary country and was entered during either 1980 or 1981, and

(ii) for each subsequent year after calendar year 1983 except as provided in subparagraph 3 of this subsection, an amount, as determined by the President, equal to 120 percent of the maximum amount of duty-free bulk rum allowable the preceding year; or

(B) 10,000 proof gallons.

(3) Unless the President determines, with respect to any calendar year after 1983, that the respective quantities of bulk rum which are the product of Puerto Rico and the United States Virgin Islands and are entered during that calendar year equalled amounts more than the greater of:

(A) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during calendar 1981, or

(B) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during the immediately preceding calendar year.

then the maximum amount of duty-free bulk rum from each beneficiary country allowable under clause (ii) of subparagraph (2)(A) of this subsection during the calendar year immediately following the year for which such determination was made shall be 100 percent of the maximum amount of duty free bulk rum allowable for the year for which such determination was made.

(C) The President may waive the provisions of subparagraphs 3(A) and 3(B) hereof if he determines that the reductions described therein were primarily the result of:

(i)(a) in the case of the Virgin Islands, competition from the bulk rum industry of Puerto Rico;

(i)(b) in the case of Puerto Rico, competition from the bulk rum industry of the United States Virgin Islands;

(ii) criminal acts;

(iii) concerted labor action; or

(iv) an act of God.

By Mr. HOPKINS:

—Page 11, line 21, strike out "or".

Page 11, line 24, strike out the period and insert in lieu thereof "; or".

Page 11, after line 24, insert the following new paragraph:

(4) tobacco and tobacco products provided for in part 13 of schedule 1 of the TSUS.

[Omitted from the Record of December 8, 1982]

H.R. 7357

By Mr. SOLOMON:

—Page 80, line 15, strike out "and".

Page 80, line 19, strike out the period and insert in lieu thereof ", and".

Page 80, after line 19, insert the following:

"(D) is registered under the Military Selective Service Act, if the alien is required to be so registered under that Act.".

Page 82, line 24, strike out "and".

Page 83, line 4, strike out the period and insert in lieu thereof ", and".

Page 83, after line 4, insert the following:

"(iv) is registered under the Military Selective Service Act, if the alien is required to be registered under that Act.